

The International Court of Justice Advisory Opinion on State

Obligations in the Context of Climate Change (2025):

A Tool to Empower NGOs and Activists



About the Center:

This report is part of the efforts of the Information and Research Center – King Hussein Foundation (IRCKHF), one of the leading research centers in Jordan and the region in the fields of human rights and sustainable development. The Center works to promote the well-being of children, youth, women, families, communities, and vulnerable groups by providing objective, impartial, and multidisciplinary research and analysis to decision-makers in Jordan and the Middle East. This contributes to more effective social and economic planning and policymaking.

This report serves as a reference tool for all activists and non-governmental organizations working in the field of climate justice, enabling them to benefit from the 2025 Advisory Opinion of the International Court of Justice on States' obligations in addressing climate change and to use it as an instrument for advocacy and accountability.

Prepared by:

Professor Ayman Halaseh, Director
Information and Research Center – King Hussein Foundation (IRCKHF)

Design and Layout: Anas Damra

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Contents

Executive Summary Background	. 4
	7
State Obligations	8
Mitigation Obligations	10
Adaptation Obligations	12
Obligations under Customary International Law	14
Why the ICJ Opinion Matters for NGOs and Climate Advocates	17
Call to Action	19
Footnotes	20

Executive Summary

On 23 July 2025, the International Court of Justice (ICJ) issued a historic advisory opinion on the "Obligations of States in respect of Climate Change".

Requested by the UN General Assembly and driven by a global campaign led by Vanuatu, the opinion represents a decisive turning point:

«Climate action is no longer voluntary. It is a legal duty.»

The Court unanimously declared that States have binding obligations under international law to protect the global climate system. It warned that failure to act—or actions that worsen the crisis such as fossil fuel expansion—can constitute internationally wrongful acts, triggering consequences such as cessation, non-repetition, and reparations.

Key Findings of the ICJ

State Obligations:

All states, whether party to climate treaties or not, must:

- Prevent significant harm to the climate system.
- Cooperate in good faith.
- Regulate fossil fuel production, subsidies, and private actors.
- The Court confirmed that 1.5°C is now a legal benchmark, and that protecting the environment is inseparable from protecting human rights, including the rights to life, health, food, and water.

Mitigation Duties:

Parties to the Paris Agreement have binding duties to:

- Prepare and update Nationally Determined Contributions (NDCs),
 ensuring their ambition is aligned with the 1.5°C goal.
- Pursue domestic mitigation measures, including regulating private entities.

Adaptation Duties:

States are legally bound to plan and implement adaptation measures that build resilience, protect ecosystems, and safeguard vulnerable communities.

Customary International Law:

Even outside treaty frameworks, all states are bound by:

- The duty to prevent significant environmental harm, with astringent due diligence standard.
- Obligations that are erga omnes (owed to the entire international community).
- The Court affirmed that responsibility can be assigned using scientific evidence, and breaches can result in reparations.

Accountability:

Climate inaction or harmful policies can lead to legal liability and reparations.

Why This Matters for NGOs

This opinion transforms the landscape for civil society. It:

- Validates advocacy: Confirms that climate action is a legal responsibility, not a political option.
- Strengthens litigation: Provides a robust basis for challenging inadequate NDCs, weak policies, and fossil fuel projects as breaches of international law.
- Links to human rights: Positions climate inaction as a violation of rights, opening pathways for rights-based campaigns and actions.
- Supports demands for reparations: Establishes that states may owe compensation or restoration for climate damage.

A Call to Action

The ICJ's advisory opinion is a strategic tool for NGOs and climate justice movements to:

- Demand stronger national and international climate action aligned with the 1.5°C goal.
- Oppose fossil fuel expansion before relevant authorities and within policy forums.
- Build coalitions using the erga omnes nature of obligations to hold lagging states accountable.
- Frame climate campaigns as both a legal duty and a human rights imperative.

This opinion is a milestone moment for climate justice. For NGOs, it provides the most explicit legal mandate yet: turn moral appeals into enforceable legal demands.

climate minister - Vanuatu's

1. Background

On 23 July 2025, the International Court of Justice (ICJ) issued a landmark advisory opinion on the "Obligations of States in respect of Climate Change". Requested by the UN General Assembly following a global campaign led by Vanuatu, the Court unanimously recognized that climate change poses "an urgent and existential threat" to humanity and the planet.¹

While advisory opinions are not legally binding, this decision carries significant authority. It clarifies that States have firm legal obligations—not merely political commitments—to

prevent and address climate change. The Court stressed that failure to act, or taking measures that aggravate the climate crisis (such as subsidizing or expanding fossil fuel production), can amount to an "internationally wrongful act" with legal consequences, including cessation, guarantees of non-repetition, and reparations.²

An urgent and

Existential

Threat

This ruling marks a decisive shift: climate action is no longer a matter of voluntary goodwill but a matter of legal duty. It empowers communities, civil society organizations, and advocates to hold States accountable, drawing on a unified legal standard recognized by the world's highest court.

Equally important, the Court explicitly linked climate obligations to human rights. It affirmed that protecting the climate system is essential to safeguarding the rights to life, health, food, water, and the right to a clean, healthy, and sustainable environment, and that these duties extend to future generations.³

For NGOs and activists, the ICJ opinion is more than a legal document: it is a new advocacy tool. It provides a clear legal foundation for campaigns to phase out fossil fuels, strengthen climate laws, and seek remedies for climate-related harm.

- Use the ICJ opinion as evidence that climate action is a legal obligation, not a voluntary choice, when engaging governments, parliaments, and international forums.
- Build campaigns and advocacy strategies that frame inaction or harmful policies (like fossil fuel subsidies) as breaches of international law and human rights.

2. State Obligations

The ICJ emphatically confirmed that States have "binding obligations to ensure protection of the climate system" under international law. These obligations arise from a web of legal frameworks, climate treaties, human rights law, and customary principles, and are not aspirational. They are enforceable duties that must guide state conduct.

The Court stated that the 1.5°C temperature limit has become the primary legal benchmark:

"The Court considers the 1.5°C threshold to be the parties' agreed primary temperature goal for limiting the global average temperature increase under the Paris Agreement. The Court adds that this interpretation is consistent with Article 4, paragraph 1, of the Paris Agreement, which requires that mitigation measures be based on the 'best available science'" (para. 224-225).



Beyond treaties, the Court clarified that general duties apply to all States, even those not party to specific agreements:

2.1 Duty to prevent significant harm:

"The most significant primary obligation for States in relation to climate change is the obligation to prevent significant harm to the climate system and other parts of the environment ... a State that does not exercise due diligence in the performance of its primary obligation to prevent significant harm to the environment, including to the climate system, commits an internationally wrongful act entailing its responsibility" (para. 409).

2.2 Duty to co-operate in good faith:

"Co-operation between States is the very foundation of meaningful international efforts with respect to climate change ... the duty to co-operate requires sustained and continuous forms of co-operation ... States are required to make good faith efforts to arrive at appropriate forms of collective action" (paras. 302-304).

2.3 Rejection of "lex specialis" excuses:4

The Court rejected the claim that climate treaties displace other international obligations:

"The Court cannot find any actual inconsistency between the provisions of the climate change treaties and other rules and principles of international law ... Nor can the Court identify a discernible intention ... to displace other possibly applicable rules or principles" (paras. 168-170).

2.4 Fossil Fuel Extraction, Subsidies, and Regulation

Critically, the Court confirmed that these obligations include addressing fossil fuel extraction, subsidies, and the regulation of private actors: Fossil Tuels Out

"Failure of a State to take appropriate action to protect the climate system from GHG emissions - including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies - may constitute an internationally wrongful act which is attributable to that State ... States

must also regulate the activities of private actors as a matter of due diligence" (para. 427-428).

2.5 Human Rights Linkage and Intergenerational Equity

Finally, the Court firmly linked environmental protection with human rights:

"A clean, healthy and sustainable environment is a precondition for the enjoyment of many human rights ... The human right to a clean, healthy and sustainable environment is therefore inherent in the enjoyment of other human rights" (para. 393).

- Advocacy leverage: Use these findings to press decision makers to phase out fossil fuel expansion and subsidies as a legal obligation, not just a policy choice.
- Accountability framing: Integrate the ICJ's confirmation of the 1.5°C benchmark and the duty to prevent harm into reports, campaigns, and legal actions against inadequate national climate policies.



3. Mitigation Obligations

The Court made it unambiguous that States parties to the Paris Agreement have legally binding obligations to:

- Prepare, communicate, and maintain successive Nationally Determined Contributions (NDCs), and
- Pursue domestic mitigation measures to implement them.

3.1 Nationally Determined Contributions (NDCs)

On NDCs, the Court explained:

"Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions. Both sentences in Article 4, paragraph 2, establish legally binding obligations upon States" (para. 234).

Failure to meet these procedural obligations—preparing, communicating, maintaining, or updating NDCs—constitutes a breach of international law.⁵

3.2 Highest Possible Ambition and the 1.5°C Benchmark

The Court made clear that NDCs are not political pledges left to "unfettered discretion":

"Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition..." (para. 240).

It further stated:

"NDCs must, when taken together, be capable of realizing the objectives of the Agreement which are set out in Article 2" (para. 249).



This includes achieving the primary legal temperature goal:

"The Court considers the 1.5°C threshold to be the parties' agreed primary temperature goal for limiting the global average temperature increase under the Paris Agreement" (para. 224).

Because of the gravity of the climate crisis, the Court affirmed that NDCs must be prepared with a "stringent" standard of due diligence:

"Each party has to do its utmost to ensure that the NDCs it puts forward represent its highest possible ambition in order to realize the objectives of the Agreement" (para. 246).

3.3 Domestic Mitigation Measures

The Court also confirmed that the second obligation under Article 4(2) is substantive:

"The obligation that parties 'shall pursue domestic mitigation measures' is substantive in nature... Parties are required to act with due diligence in taking necessary measures to achieve the objectives set out in their successive NDCs... including in relation to activities carried out by private actors" (paras. 251–252).

This means that States are responsible not only for their own emissions but also for ensuring that private actors under their jurisdiction comply.

- Monitoring and advocacy: Track whether your country's NDCs meet the 1.5°C goal and demand revisions when they fall short; use this legal obligation as leverage.
- Litigation tool: Challenge weak or unimplemented NDCs as breaches
 of international law, holding decision makers accountable for both
 procedural (planning and updating) and substantive (actual emissions
 reductions) failures.

4. Adaptation Obligations

The Court confirmed that adaptation is one of the core objectives of the Paris Agreement. Article 2(1)(b) of the Agreement aims to:

"increase the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production" (para. 255).

4.1 A Legally Binding Duty

The Court emphasized that Article 7(9) of the Paris Agreement creates a binding duty:

"Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions. This provision ... imposes a legally binding obligation upon the parties to undertake adaptation planning actions" (para. 256).

These actions include (Article 7(9)):

- · Formulating and implementing national adaptation plans;
- Assessing climate impacts and vulnerabilities, with a focus on protecting vulnerable people and ecosystems;
- · Monitoring and learning from adaptation programmes; and
- Strengthening resilience of socio-economic and ecological systems, including diversification of economies and sustainable resource management.⁶





4.2 Due Diligence Standard

The Court held that adaptation obligations are assessed against a standard of due diligence:

"It is therefore incumbent upon parties to enact appropriate measures ... that are capable of 'enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change' (Article 7, paragraph 1). In this connection, parties must use their best efforts, in line with the best available science" (para. 258).

4.3 A Warning on Insufficient Action

Drawing on IPCC findings, the Court underscored the urgency:

"Adaptation measures are still insufficient, and limits to adaptation have been reached in some ecosystems and regions" (para. 87).

It also stressed that maladaptation, poorly designed measures that increase vulnerability, is already happening in some areas.

- Policy engagement: Use this obligation to push decision makers to prepare and update national adaptation plans and ensure funding for local resilience projects, especially for vulnerable communities.
- Oversight role: Monitor adaptation policies and expose cases of maladaptation or inaction; highlight that failure to plan for adaptation is a breach of a binding legal duty.

5. Obligations under Customary International Law

5.1 Duty to Prevent Significant Environmental Harm

The Court confirmed that the duty to prevent significant harm to the environment is a cornerstone of customary international law, and it now explicitly applies to the global climate system:

"The customary duty to prevent significant harm to the environment also applies with respect to the climate system and other parts of the environment" (para. 134).

This duty binds all states, including those that are not parties to climate treaties, and cannot be avoided by opting out of specific agreements.

5.2 Stringent Due Diligence Standard

The Court emphasized that, because of the "seriousness of the threat" and the "quintessentially universal risk" posed by climate change, the due diligence required to fulfill this obligation is particularly stringent:

"States [must take] to the best of their ability, appropriate and, if necessary, precautionary measures, which take account of scientific and technological information, as well as relevant rules and international standards, and which vary depending on each State's respective capabilities. Other elements of the required conduct include undertaking risk assessments and notifying and consulting other States, as appropriate" (para. 136).

This includes:

- Adopting strong internal measures: legislation, administrative procedures, and enforcement mechanisms:
- Using the "best available science" (e.g., IPCC reports) when setting policy;
- Conducting Environmental Impact Assessments (EIAs) for activities with climate risks; and
- Notification and consultation with other states where transboundary harm is possible (paras. 295–298). ⁷

5.3 Applicability Beyond Treaties

The Court made clear that these obligations exist regardless of treaty membership.

"The duty to prevent significant transboundary harm, and the related duty to co-operate, are obligations that apply to all States, whether or not they are parties to climate change treaties" (para. 139).

This closes any legal loophole for states that withdraw from or decline to ratify climate treaties: they remain bound under customary law.

5.4 Consequences of Breach

The Court was explicit: failure to act on climate obligations, such as not cutting emissions or promoting fossil-fuel expansion, may constitute an internationally wrongful act:

"Breaches of obligations under customary international law, such as the failure of a State to regulate emissions of GHGs under its duty to exercise due diligence to prevent significant harm, or its failure to conduct EIAs, give rise to the entire panoply of legal consequences... including cessation, non-repetition, and full reparation" (para. 444).

Reparations may include:

- · Stopping wrongful conduct;
- · Guarantees of non-repetition; and
- Restitution, compensation, or restoration for climate-related losses.8

5.5 Causation and Accountability

The Court rejected the idea that climate harm is too diffuse to assign responsibility:

"The diffuse and multifaceted nature of various forms of conduct which contribute to anthropogenic climate change does not preclude the application of the duty to prevent significant harm" (para. 279).

It confirmed that scientific methods make it possible to trace a state's contribution to global emissions:

"It is scientifically possible to determine each State's total contribution to global emissions, taking into account both historical and current emissions" (para. 429).

5.6 Erga Omnes Nature of Climate Obligations9

In a major development, the Court declared that these climate duties are erga omnes:

"States' obligations pertaining to the protection of the climate system ... are obligations erga omnes" (para. 440).

This means any state, not just those directly harmed, can invoke responsibility for another state's climate failures.



- Universal accountability: NGOs can argue that all states (even those outside climate treaties) have binding duties, closing a common excuse for inaction.
- Legal leverage: The confirmation that climate harm is traceable and gives rise to reparations strengthens litigation and campaigns for loss and damage finance and for international cooperation on climate accountability.



Why the ICJ Opinion Matters for NGOs and Climate Advocates

The 2025 advisory opinion of the International Court of Justice (ICJ) is more than a legal text; it is a powerful new advocacy tool. For civil society organizations, grassroots movements, and climate litigators, the Court's conclusions open doors for action at local, national, and international levels.

6.1 Climate Action Is Now a Legal Duty

The Court's clear statement that climate obligations "are not aspirational – they are legal, substantive, and enforceable" confirms what activists have long argued: cutting emissions, phasing out fossil fuels, and protecting communities are legal responsibilities. States can no longer present climate action as optional or voluntary.

6.2 Fossil Fuels in Crosshairs

For the first time, the Court identified fossil fuel production, consumption, subsidies, and licensing as activities that may breach international law when they cause harm to the climate system. This gives NGOs a powerful argument: new coal, oil, and gas projects are not just bad policy; they may be unlawful.

6.3 Human Rights Dimension

The Court recognized that a clean, healthy, and sustainable environment is essential to the enjoyment of human rights, including the rights to life, health, food, and water. This recognition allows civil society to frame climate inaction as a human rights violation, and to pursue litigation on behalf of affected communities.

6.4 Stringent Due Diligence and the 1.5°C Benchmark

States must now act with "stringent due diligence" to meet their climate obligations. The Court elevated the 1.5°C global warming limit from a political aspiration to a legal yardstick. Activists can demand that governments demonstrate, with evidence, that their climate plans are strong enough to meet this target.

6.5 Accountability and Reparations

The Court opened the door to climate liability. If a state fails to act and causes climate harm, it may be legally required to:

Stop harmful activities,

Provide guarantees of non-repetition, and

Pay reparations or restore ecosystems.

This strengthens campaigns for "loss and damage" financing and offers legal avenues for those seeking compensation for climate-related harm.

6.6 Reinforcing International Law Principles

The opinion strengthened several foundational principles of international law:

- The "no-harm" rule now clearly applies to the global atmosphere and the climate system.
- Climate protection is recognized as a common interest of humankind, with obligations that are erga omnes (owed to the entire international community).
- Intergenerational equity: duties extend to future generations.
- Scientific evidence has legal force: the 1.5°C threshold now guides legal evaluation of state action.
- Statehood protections: the Court affirmed that small island states threatened by rising seas retain their international legal personality even if their territory becomes submerged.

6.7 Broader Context and Momentum

The ICJ opinion builds on a wider global trend:

- In 2024, the International Tribunal for the Law of the Sea clarified that states must protect the marine environment from climate impacts. 10
- The Inter-American Court of Human Rights recognized a healthy climate as a human right and described the duty to prevent irreversible climate harm as a jus cogens (peremptory) norm.¹¹
- The UN General Assembly recognized the right to a healthy environment in 2022.12

Together, these decisions strengthen the hand of civil society everywhere.

6.8 A Call to Action

This opinion gives activists, NGOs, and climate-vulnerable communities a global legal framework to demand action:

- Use the legal findings to push for stronger national climate laws and policies.
- Challenge new fossil fuel projects on the grounds that they breach international obligations.
- Invoke human rights to hold decision makers accountable for inadequate climate responses.
- Collaborate internationally: because these obligations are erga omnes, any state—or coalition of states—can demand compliance from others.

In the words of Vanuatu's climate minister Ralph Regenvanu, the opinion is "a milestone moment for climate justice". It transforms moral appeals into legal arguments that can shape policies, guide negotiations, and support court actions across the globe.

- Strategic litigation: Use this opinion as a basis for lawsuits in national, regional, or international forums against inadequate climate policies and harmful fossil fuel projects.
- Advocacy toolkit: Frame advocacy around climate as a legal duty, human rights obligation, and reparations issue, making demands more compelling to governments and donors.

Footnotes

- 1. ICJ, Obligations of States in Respect of Climate Change, Advisory Opinion, 23 July 2025, para. 73.
- 2. Ibid., para. 444 448.
- 3. Ibid., para. 393.
- 4. Lex specialis: A legal principle meaning that when two sets of legal rules apply to the same situation, the more specific rule takes precedence over the more general one. Some states argued that climate treaties (as special rules) should replace broader international obligations, but the ICJ rejected this claim.
- 5. ICJ, Obligations of States in Respect of Climate Change (2025), para. 336.
- 6. Ibid., paras. 256-257.
- 7. Ibid., para. 295 298.
- 8. ICJ, Obligations of States in Respect of Climate Change, Advisory Opinion, 23 July 2025, paras. 447–450.
- 9. Erga omnes: A Latin term meaning "owed to all." In international law, it refers to obligations that every state owes to the entire international community. This means any state, not just a directly affected one, can hold another state accountable for failing to meet these obligations.
- 10. International Tribunal for the Law of the Sea (ITLOS), Advisory Opinion on the request submitted by the Commission of Small Island States on Climate Change and International Law (Request for an Advisory Opinion submitted to the Tribunal), Case No. 31, 21 May 2024.
- 11. Inter-American Court of Human Rights (IACtHR), Advisory Opinion OC-23/17 on the Environment and Human Rights (State obligations in relation to the environment in the framework of the protection and guarantee of the rights to life and to personal integrity interpretation and scope of Articles 4(1) and 5(1) of the American Convention on Human Rights), 15 November 2017.
- 12. United Nations General Assembly, The human right to a clean, healthy and sustainable environment, A/RES/76/300, 28 July 2022.



Climate action

is longer voluntary

It is a legal duty

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Requested by the UN General Assembly and driven by a global campaign led by Vanuatu, the opinion represents a decisive turning point: "Climate action is no longer voluntary. It is a legal duty". The Court unanimously declared that States have binding obligations under international law to protect the global climate system. It warned that failure to act—or actions that worsen the crisis such as fossil fuel expansion—can constitute internationally wrongful acts, triggering consequences such as cessation, non-repetition, and reparations.

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