

# World court’s “advisory opinion”: States obliged to prevent climate change harm

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The International Court of Justice (ICJ), the judicial organ of the United Nations, provided an advisory opinion last Wednesday which said that states have a legal obligation to prevent harm from climate change.

The “Obligations of States in respect of Climate Change” case was first brought to the UN General Assembly in 2023 by the government of Vanuatu, a Pacific island nation particularly vulnerable to the effects of climate change. The assembly passed a resolution in March that year which requested the ICJ to hand down its opinion on two questions:

- “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?”

- “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?”

In their unanimous advisory opinion, the 15 ICJ judges noted that those questions “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.”

Owing to the many conflicting national interests involved in these “existential issues,” the case is the largest in the history of the ICJ in terms of number of states involved. A total of 91 countries submitted written statements to the court prior to the hearings held last December, while 96 countries and 11 international organisations presented oral statements during the hearings themselves.

The advisory opinion opened by recognising the scientific reality of the risk that climate change poses to humanity, referencing the Intergovernmental Panel on

Climate Change (IPCC):

The IPCC has concluded with “very high confidence” that risks and projected adverse impacts and related loss and damage from climate change will escalate with every increment of global warming. It adds that these risks, projected adverse impacts and related loss and damage are “higher for global warming of 1.5°C than at present, and even higher at 2°C.”

The ICJ’s opinion affirmed that to live in a “clean, healthy and stable environment” is a basic human right, laid out in the Universal Declaration of Human Rights. The “urgent and existential threat” to humanity posed by climate change is undermining this right, it stated.

Thus, countries had an obligation under international law “to prevent significant harm to the environment by acting with due diligence and to use all means at their disposal to prevent activities carried out within their jurisdiction or control from causing significant harm to the climate system and other parts of the environment.”

With regard to the second question on legal consequences for those states that cause significant climate harm, the court stated that a breach to the above obligation constituted an “internationally wrongful act” that may include an obligation on the part of the responsible state to provide “full reparation to injured states in the form of restitution, compensation and satisfaction.”

The court rejected arguments advanced by major emitters, including Australia, the United States and Britain, that the obligations of countries on climate change are limited to those set out in treaties

specifically dealing with climate change, such as the 2015 Paris Agreement.

The Paris Agreement only requires signatory countries to set targets that cut domestic emissions, not to reduce or regulate their fossil fuel exports, which in cases such as Australia make up the overwhelming proportion of the country's contribution to climate change.

The ICJ's rejection of such arguments exposes the attempts by the major polluting countries to avoid responsibility for their role in perpetuating the climate crisis. Its impact will overwhelmingly fall on those living in countries that are the poorest and bear the least responsibility for greenhouse gas emissions.

Despite its legally non-binding character, the decision has been celebrated, including by youth and students in Vanuatu who played a key role in lobbying Vanuatu's government to present the case in the first place. A group of law students from the University of the South Pacific formed the Pacific Island Students Fighting Climate Change in 2019 and began their campaign to "to persuade the leaders of the Pacific Islands Forum to take the issue of climate change and human rights to the International Court of Justice."

Political conclusions must be drawn, however. The very nature of the decision underscores the futility of young people seeking climate justice by appealing to the courts and legal system in general. The ICJ itself concluded its advisory opinion by acknowledging that international law "has an important but ultimately limited role in resolving this problem."

Just how "limited" can be ascertained by reviewing how the major capitalist powers have repeatedly disregarded international law for years on end, particularly now in relation to the ongoing US-Israeli genocide in Gaza. The very governments responsible for the vast majority of greenhouse gas emissions that are plunging the world into ecological catastrophe are also directly responsible for the most blatant war crimes since World War II against the Palestinian people.

Last year, the ICJ ruled that Israel's occupation of Palestine was unlawful, that countries must not "render aid or assistance in maintaining" the occupation. In a separate ruling, it stated that "Israel must immediately halt its military offensive" in Gaza and cease actions that "inflict on the Palestinian group in Gaza conditions

of life that could bring about its physical destruction in whole or in part."

The imperialist powers, led by the United States, have flatly ignored these rulings as they continue their support for Israel's genocidal rampage in Gaza. Moreover, they have openly participated in or supported the illegal US and Israeli attacks on Iran, alongside the advanced plans for ethnic cleansing in Gaza.

With this in mind, the closing sentence of the ICJ's advisory opinion—that it hopes "its conclusions will allow the law to inform and guide social and political action to address the ongoing climate crisis"—is an illusion. International law has not prevented the capitalist classes from enabling the mass murder in Gaza, and it will not stop them from continuing to profit from fossil fuel emissions that are threatening the planet and its people with increasing climate disasters.

Workers and young people rightfully outraged at the official complicity in the climate crisis must take up the fight for socialism. The capitalist mode of production and its outmoded division of the world into rival nation states is the fundamental cause of environmental destruction. Only the fight for its abolition and replacement by socialism, based on human need not private profit, can safeguard the right of humanity to live in a "clean, healthy and stable environment." The international working class, not the courts created by the imperialist powers, is the only force that can carry out this historic task.



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