CLIMATE AO in BELEM

Leveraging the ICJ Climate Ruling at COP30 to Unlock Ambition and Advance Accountability

A Pocket Guide for Negotiators and Allies

PACIFIC ISLANDS STUDENTS FIGHTING CLIMATE CHANGE

World's Youth for Climate Justice

CIEL CENTER for INTERNATIONAL ENVIRONMENTAL LAW

CLIMATE ACTION NETWORK Pacific Islands

Background

In response to a consensus request from the UN General Assembly, 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. The world's highest court confirmed that climate action is a legal duty: **All States must act to prevent significant climate harm with stringent due diligence in line with equity—respecting common but differentiated responsibilities and respective capabilities (CBDR-RC)—and do so cooperatively, protecting the human rights of current and future generations.** The Court recognised that its Advisory Opinion concerns "an existential problem of planetary proportions that imperils all forms of life and the very health of our planet." In clarifying the law, this ruling acts as a guidepost and provides a powerful tool for negotiators to ensure climate justice and raise climate ambition at COP30.

Key Findings of the Court

- **Climate action must be grounded in science.** The reports of the IPCC represent the "best available science." (paras. 74, 278)
- **1.5 ℃ is the agreed temperature limit,** and all countries are legally bound to take action and cooperate in good faith to limit warming to 1.5 degrees (para. 224). This includes ensuring that climate actions, such as Nationally Determined Contributions (NDCs), and provided finance are capable of achieving this goal.
- Every State has **an obligation to act with stringent due diligence and "to 'use all the means at its disposal'" to prevent harm to the climate system (para. 281) and protect human rights from climate impact.** This includes regulating the conduct known to cause harm, which must begin with fossil fuel activities that are the primary source of greenhouse gases driving climate change: production, consumption, licensing, and subsidies. The failure to take urgent and adequate measures to do so may constitute an internationally wrongful act. (para. 427)
- States must ensure their **NDCs** reflect **their highest possible ambition, are more ambitious over time, and are collectively capable of effectively limiting warming to 1.5℃**, and **failure** to do so constitutes a **breach** of their obligations. (paras. 234-249)
- Developed States have an **obligation to provide financial resources to assist developing States** with respect to both mitigation and adaptation. This obligation must be interpreted in a manner that allows **for the achievement of the 1.5°C temperature goal**. (paras. 264-265)
- The climate treaties—the UNFCCC, Kyoto Protocol, and Paris Agreement—**include binding obligations on States to mitigate, adapt, and cooperate** (including through the provision of finance) to address the climate crisis. However, the scope of applicable law extends beyond the climate treaties and States also have binding obligations related to climate change under other multilateral environmental agreements, human rights law, and customary international law. (paras. 171-173, 407-409)

- All States, even those not party to one or more of the climate agreements, are bound to take action and have **a duty to prevent significant harm to the environment and a duty to co-operate for the protection of the environment** in line with the principles of good faith and due diligence. (paras. 315, 409)
- The right to a **clean, healthy, and sustainable environment** is a precondition for the **enjoyment** of other human rights (para. 393).
- When States breach one or more of their international obligations, they have a **duty to cease the wrongful conduct**, provide guarantees of non-repetition, and provide full reparation for any resulting harm, in the form of restitution, compensation, and/or satisfaction. (paras. 444-455)

How can the AO be used at COP30?

Parties should seek to embed the precise legal terminology and clarifications provided by the ICJ into negotiating texts across agenda items, as appropriate, to ground COP30 outcomes in established international law and enhance coherence across agenda items.

Agenda Item	How the AO Can Be Used
Finance (NCQG, Baku to Belem Roadmap, 2.1(c), etc.)	Developed countries have a legally binding obligation under Art. 9 of the Paris Agreement to provide climate finance, and it should be at a level that enables the achievement of the goals of the Paris Agreement, under Art. 2 (para. 265) Because subsidising fossil fuels is among the relevant forms of conduct that result in GHG emissions causing adverse impacts to the climate system, States have an obligation to end fossil fuel subsidies and other finance that prolongs the use of fossil fuels, as part of States' obligations to achieve article 2.1(c) (paras. 94, 427). The failure to do so may constitute an internationally wrongful act.
Mitigation (Mitigation Work Programme, UAE Dialogue & Global Stocktake, etc.)	For States to comply with their mitigation obligations, all Parties must take active measures that make an adequate contribution to achieving the collective goal to limit warming to 1.5°C, cooperatively. In pointing out that failing to take actions to protect the climate system from fossil fuel production, consumption, licensing, and subsidising may be an internationally wrongful act, the ICJ's ruling makes clear that fossil fuel phaseout is critical to States' duties in regards to climate change. (paras. 427, 94).

	Transitioning away from fossil fuels with the goal to phase out cannot be ignored, and States must agree to actually take action on fossil fuels by making progress on the MWP and UAE dialogue, among others, with Annex I Parties bearing additional obligations to take the lead in limiting greenhouse gas emissions and enhancing their greenhouse sinks and reservoirs (para. 199).
Just Transition Work Programme (JTWP)	States have a duty to use all means at their disposal to prevent harm to the environment and people, which includes ensuring a just transition away from fossil fuels in line with science and the goal to limit temperature rise to 1.5°C and respect for and protection of human rights, including through regulation of private actors (paras. 371, 373, 403, 404, 409). Continuing to allow fossil fuel production, consumption, licensing, and subsidies may be a breach of international law (para. 427). Therefore, it is imperative that there is a transition from these activities in line with human rights, grounded in the rights to equality and non-discrimination, a clean, healthy, and sustainable environment, decent work, social security, public participation, and access to information and justice.
Nationally Determined Contributions (NDCs)	The ICJ made clear that NDCs are not wholly discretionary and merely preparing and communicating an NDC is not sufficient to meet a State's obligation under the Paris Agreement (para. 236), but that NDCs must be progressively "more demanding over time" (para. 241), reflect the "highest possible ambition" (para. 242), be informed by the GST (para. 243), and, "when taken together" with other NDCs, be "capable of achieving the temperature goal of limiting global warming to 1.5°C above pre-industrial levels, as well as the overall objective of the "stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system"." (para. 245). **The NDC Synthesis Report shows both an ambition and an accountability gap as many polluting countries have not submitted their NDCs, and those submitted remain insufficient. It is critical that leaders during the Leaders Summit and Parties at COP30 take concrete action to address this ambition gap. For example, a decision that directs Parties that have not submitted NDCs compliant with their legal obligations, as clarified in the ICJ AO, to revise and resubmit them accordingly and a pathway established to ensure all NDCs are 1.5°C aligned.**
Adaptation (Global Goal on Adaptation, Adaptation Finance)	Adaptation is one of the core objectives of the Paris Agreement (para. 255) and complements the mitigation measures to prevent harm (para. 259). As such, States' obligations include taking "appropriate" adaptation measures that can enhance adaptive capacity, strengthen resilience, and reduce vulnerabilities (para. 258, also para. 282) "Adaptation measures reduce the risk of significant harm occurring and are therefore also relevant for assessing whether a State is fulfilling its customary obligations with due diligence." (paras. 280-81).

Additionally, the ICJ recognises the IPCC's findings that adaptation measures and adaptation finance are lacking (para. 87). The 2025 Adaptation Gap Report estimates adaptation finance needs of developing countries will be US$310 to US$365 billion per year by 2035, a scale that exceeds the New Collective Quantified Goal (NCQG) agreed at COP29. Read in conjunction with paras. 211 (which confirms the binding obligation to provide climate finance), 212, 213, and 260, this strengthens calls for scaled-up adaptation finance and a GGA outcome that includes a commitment to significantly increased adaptation finance. (See also, para. 304 and para. 308 specifying that cooperation is a legal obligation)

Loss and Damage

The ICJ confirmed that States have the responsibility to remedy harm they have caused through conduct in breach of their legal obligations. IPCC science concluded with 'very high confidence' that loss and damage from climate change will escalate with every increment of global warming. Approaches to remedying loss and damage extend beyond the Warsaw International Mechanism and the Fund for Responding to Loss and Damage as they do not address issues of liability or compensation. Responsibility for loss and damage from breaches of obligations under the climate treaties is to be determined by applying the well-established rules on State responsibility under customary international law (para. 420).

A forthcoming brief to be published here before COP30 by the Loss and Damage Collaboration will provide clear guidance on how Parties can use the ICJ ruling to advance progress on loss and damage under the UNFCCC and the Paris Agreement.

Human Rights, Gender & Indigenous Peoples (AIM, GAP, LCIP-P)

While some agenda items have traditionally included direct references to specific human rights or focus on groups who have specific rights, for example, AIM, GAP, and LCIP-P, human rights, including the right to a clean, healthy, and sustainable environment, can and should be integrated into the operative text across agenda items at COP30.

The ICJ recognised that climate change impacts a whole host of human rights, including the rights of women, children, and Indigenous Peoples (paras. 372-386) and that "States must take measures to protect the climate system and other parts of the environment" to guarantee enjoyment of human rights (para. 403). Thus, States have to consider obligations under human rights law in taking action under the climate treaties and vice versa (para. 404). Additional relevant paras. 371, 389-402.

Corporate Capture and UNFCCC Reform	The ICJ emphasised that there is a wide range of conduct that is considered relevant to cause harm to the climate system and other parts of the environment (para. 94). States have a duty to cooperate to address the climate crisis, including through multilateral treaties (para. 307, 308). However, the duty cannot be fulfilled merely by engaging in multilateralism and concluding treaties; those forms of cooperation must be in good faith and effective in preventing the harm. The customary international obligation of all States to co-operate in preventing climate harm requires countries to re-examine whether existing modes of cooperative action on climate are effective and reform them if they are not, or undertake further forms of collective action. Additionally, States' duties to regulate private actors and their activities should include excluding them from participating in treaty regimes in ways that undermine them (para. 403).
Science	Science must guide climate action. Due diligence also requires States to "actively pursue the scientific information necessary" for them to understand the potential harm; thus, States must welcome the IPCC, given that it is regarded as the best available science. (para. 283)

Questions of Significance

What are the legal implications of the ICJ's observation that COP decisions may have legal effects?

The ICJ has clarified that, in certain circumstances, decisions of the governing bodies of the climate treaties: the COP (UNFCCC), CMP (Kyoto Protocol), and CMA (Paris Agreement) can have legal effects (para. 184):

1. **Where the treaty so provides:** Decisions may create binding obligations for Parties. Example: Paris Agreement Art. 4(8) — Parties shall provide NDC information "in accordance with decision 1/CP.21 and any relevant CMA decisions."
2. As **subsequent agreements** (VCLT Art. 31(3)(a)): Where COP/CMP/CMA decisions express agreement in substance among Parties on interpreting a treaty, they must be taken into account as interpretative guidance (though not as new obligations).

This is not new law. The ICJ's statement simply affirms long-established principles of treaty interpretation.

What are the legal implications of the ICJ's finding that development status is not static (para. 226)?

In its ruling, the ICJ clarified that, in implementing the Paris Agreement, the phrase "in the light of different national circumstances"—as part of the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC)—recognises that the status of a State as developed or developing is not static. The debate over whether States' status as "developed" or "developing" is set in stone predates the ICJ's opinion.

Differentiation of responsibilities and the principle of CBDR-RC is not derived from the climate treaties alone, but is rooted in longstanding international law and principles of historic responsibility and equity and is applicable beyond the climate treaties, including to States that are not party to one or more of the climate agreements. The specific differentiation of responsibilities contained in the climate treaties is a manifestation of how the contracting parties to these agreements agreed to accord responsibility.

Regardless of whether any State's status as a developing country may be subject to change, all countries still have the responsibility to act in good faith in implementing their treaty obligations, which means developed countries with historic responsibility must fulfil their climate obligations, particularly on mitigation and finance, and they have failed to do so to date. Expanding the group of States that bear heightened responsibilities to contribute finance does not alter existing obligations for developed countries.

To conclude, this is the first global climate negotiation since the ICJ issued its landmark ruling. The Court provides legal clarity on what States must do to achieve a safe and livable climate. Delay is not an option. Parties at COP30 must ensure their actions and decisions comply with the Court's ruling.

For any questions or feedback regarding this specific briefing note- please reach out to Erika Lennon (elennon@ciel.org), Sindra Sharma (sindra.sharma@pican.org), Jule Schnakenberg (jule@wy4cj.org) or Vishal Prasad (vishal@pisfcc.org).

For more tailored, comprehensive negotiation guidance relevant to specific countries or country groups, and grounded in defined topics and agenda items, please contact our legal taskforce (co-coordinated by the Center for International Environmental Law (CIEL), Pacific Islands Students Fighting Climate Change, and Worlds' Youth for Climate Justice - working with trusted lawyers) at **ao@pisfcc.org**

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