

CLIMATE POLICY BRIEF

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The Role of Advisory Opinions in Shaping International Climate Change Law

By Daniel Uribe Terán *

ABSTRACT

This policy brief analyses how advisory opinions (AOs) from the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), and the Inter-American Court of Human Rights (IACtHR) are fundamentally reshaping international climate law. These AOs are crystallising States' climate commitments, transforming them from voluntary political pledges into binding legal obligations grounded in customary international law and human rights. This judicial shift establishes stringent, science-based due diligence standards, confirms State responsibility for harm, and provides a powerful legal foundation for accountability and reparation.

KEYWORDS: Advisory Opinions (AOs), International Court of Justice (ICJ), International Tribunal for the Law of the Sea (ITLOS), Inter-American Court of Human Rights (IACtHR), International Climate Change Law, Customary International Law, Human Rights, Due Diligence, International Investment Agreements (IIAs)

Ce rapport sur les politiques analyse comment les avis consultatifs de la Cour internationale de justice (CIJ), du Tribunal international du droit de la mer (TIDM) et de la Cour interaméricaine des droits de l'homme (CIDH) sont en train de remodeler en profondeur le droit international du climat. Ces avis consultatifs cristallisent les engagements climatiques des États, en les transformant de promesses politiques volontaires en obligations juridiques contraignantes fondées sur le droit international coutumier et les droits humains. Cette évolution judiciaire établit des normes rigoureuses de diligence raisonnable fondées sur la science, confirme la responsabilité des États en cas de dommages et fournit une base juridique solide pour la redevabilité et la réparation.

MOTS-CLÉS: Les avis consultatifs, La Cour internationale de justice (CIJ), Le Tribunal international du droit de la mer (TIDM), La Cour interaméricaine des droits de l'homme (CIDH), Le droit international du climat, Le droit international coutumier, Les droits humains, Le diligence raisonnable, Les accords internationaux d'investissement

Este informe sobre políticas analiza cómo las opiniones consultivas (OCs) de la Corte Internacional de Justicia (CIJ), el Tribunal Internacional del Derecho del Mar (TIDM) y la Corte Interamericana de Derechos Humanos (Corte IDH) están reconfigurando fundamentalmente el derecho internacional climático. Estas OCs están cristalizando los compromisos climáticos de los Estados, transformándolos de promesas políticas voluntarias en obligaciones legales vinculantes, basadas en el derecho internacional consuetudinario y en los derechos humanos. Este giro judicial establece estándares estrictos de debida diligencia

KEY MESSAGES

- "The ICJ's advisory opinion...profoundly transforms international climate law by establishing universal, binding duties...ultimately shifting climate action from solely political negotiation to legally enforceable obligations with a right to full reparation for climate harm."
- "This reaffirmation of the duty of States to prevent the effects of climate change could transform the due diligence standard from a vague notion of 'best efforts' into a concrete, science-based legal benchmark."
- "The IACtHR...warns that ISDS mechanisms cause a 'regulatory chilling effect,' deterring climate action, and therefore requests States to protect human rights and the environment over investor predictability..."

* Daniel Uribe Terán is Lead Programme Officer of the Sustainable Development and Climate Change Programme (SDCC) at the South Centre.

basados en la ciencia, confirma la responsabilidad del Estado por el daño y proporciona un sólido fundamento jurídico para la rendición de cuentas y la reparación.”

PALABRAS CLAVES: *Las opiniones consultivas (OCs), La Corte Internacional de Justicia (CIJ), El Tribunal Internacional del Derecho del Mar (TIDM), La Corte Interamericana de Derechos Humanos (Corte IDH), El derecho internacional climático, El derecho internacional consuetudinario, Los derechos humanos, La debida diligencia, Los acuerdos internacionales de inversión*

Introduction

The international governance of climate change has undergone a profound transformation in recent years. Although the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) has been the primary forum for addressing the climate crisis for decades, the need to catalyse climate action and, in particular, to confront the power imbalances inherent in negotiation-based processes and to clarify the international obligations of States concerning climate change has shifted efforts towards the judicialisation of climate change in international tribunals.

Led by a grassroots movement of Pacific youth and supported by a coalition of climate-vulnerable nations, including Small Island Developing States (SIDS), this shift towards international and regional courts represents a legal strategy aimed at creating a comprehensive, multi-layered, and resilient body of jurisprudence on States' obligations related to climate change.¹ The set of requests for advisory opinions from three of the world's most influential international and regional courts: the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice (ICJ), and the Inter-American Court of Human Rights (IACtHR) aims to clarify State obligations concerning climate change based on core principles of responsibility and accountability beyond the Paris Agreement, including under human rights obligations and general international law.

These judicial pronouncements represent important legal developments in addressing States' obligations regarding climate change. For example, the ruling on marine pollution by ITLOS reinforces the argument regarding “harm” at the ICJ. At the same time, a progressive opinion on human rights from the IACtHR supports the “consequences for individuals” aspect of the ICJ's decision. The sum of these authoritative interpretations creates a body of precedents informing future State conduct in shaping domestic legislation and future climate litigation. It could also serve as an important endorsement for States' actions concerning climate change in the context of international investment and other agreements that may otherwise limit their legitimate policy space.

¹ Ruth Green, “Climate crisis: Small Island States take landmark case to the ICJ”, *International Bar Association* (21 January 2025). Available from <https://www.ibanet.org/Small-Island-States-take-landmark-case-to-the-ICJ> (accessed 15 July 2025).

The Nature of Advisory Opinions in International Law

In general terms, an advisory opinion provides legal guidance from an international tribunal that is officially non-binding, setting it apart from a binding judgment in a contentious case. Although some exceptions to the non-binding status of advisory opinions exist,² they hold significant legal weight and moral authority, serving as an influential tool for developing international law by clarifying delicate legal issues. Their non-binding nature is a crucial feature, enabling tribunals to provide judicial clarification on sensitive topics, thus making the advisory function a vital means for advancing international law, especially on issues that are “shielded” from litigation.

Grounded in Article 96 of the United Nations (UN) Charter and Articles 65–68 of the International Court of Justice (ICJ) Statute, the UN General Assembly (UNGA) and Security Council may request an opinion on “any legal question” from the ICJ. Meanwhile, other UN organs and specialised agencies are limited to questions “arising within the scope of their activities.” Although non-binding, ICJ opinions are highly influential, especially when the UNGA adopts resolutions endorsing their findings, thereby fostering a cooperative relationship in which the Court's legal determinations support political actions.³ The International Tribunal for the Law of the Sea (ITLOS) has evolved its advisory role beyond the narrow mandate in the UN Convention on the Law of the Sea (UNCLOS),⁴ which was initially limited to its Seabed Disputes Chamber.⁵ ITLOS has extended its advisory jurisdiction using its procedural powers (Article 138 of its Rules) to allow the full Tribunal to issue opinions when requested under an agreement related to the purposes of UNCLOS. This is demonstrated in key advisory opinions, such as the full Tribunal's advisory opinion on *Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission*⁶ and on the *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*.⁷

In the case of the Inter-American Court of Human Rights (IACtHR), its advisory jurisdiction is quite strong. Article 64 of the American Convention on Human Rights (ACHR) grants a broad mandate to interpret the Convention and other regional human rights treaties, as well as to provide views on the compatibility

² *Convention on the Privileges and Immunities of the United Nations*, adopted 13 February 1946, 1 UNTS 15, Section 30 (entered into force 17 September 1946). Available from <https://www.un.org/en/ethics/assets/pdfs/Convention%20of%20Privileges-Immunities%20of%20the%20UN.pdf> (accessed 15 July 2025).

³ See for example *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, ICJ Reports 1996, p. 226, and United Nations General Assembly, *Convention on the Prohibition of the Use of Nuclear Weapons* (2 December 2024), UN Doc A/RES/79/64. The advisory opinion has been cited in several UN resolutions, including the one mentioned.

⁴ *United Nations Convention on the Law of the Sea (UNCLOS)*, opened for signature 10 December 1982, 1833 UNTS 397 (entered into force 16 November 1994).

⁵ UNCLOS Article 159 (10) and Article 191

⁶ *Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission*, Advisory Opinion, ITLOS Reports 2015, p. 4. Available from https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.21/advisory_opinion_published/2015_21-advop-E.pdf.

⁷ *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law* (Request for Advisory Opinion submitted to the Tribunal), Case No. 31 (ITLOS, 12 December 2022). Available from <https://www.itlos.org/en/main/cases/list-of-cases/request-for-an-advisory-opinion-submitted-by-the-commission-of-small-island-states-on-climate-change-and-international-law-request-for-advisory-opinion-submitted-to-the-tribunal/> (accessed 15 July 2025).

of a Member State's domestic laws with these treaties.⁸ The strength of the IACtHR's advisory options comes from the implementation of the doctrine of "conventionality control" (*control de convencionalidad*), which obliges domestic judges and State officials to ensure national laws conform to the ACHR as interpreted by the IACtHR.⁹

Although the nature of advisory opinions is formally non-binding, their influence reflects the primary function they intend to guarantee, namely, to shape legal principles and guide the conduct of international political bodies. At the universal level, opinions from the ICJ primarily serve as high-level normative statements for interpreting international law. In the case of ITLOS, its opinions are more focused, and its technical impact aims at the progressive development and clarification of a particular area of international law. Notably, the advisory opinions of the IACtHR possess a significant domestic legal force, serving as a direct catalyst for legal reform within its Member States.

The Impact of the Climate Change Advisory Opinions

The global climate crisis has propelled international courts to clarify States' obligations. This section examines three pivotal advisory opinions: from the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice (ICJ), and the Inter-American Court of Human Rights (IACtHR). The ITLOS opinion (2024) integrated Greenhouse Gas (GHG) emissions into the definition of "marine pollution" under UNCLOS, establishing a "stringent due diligence" standard for prevention. The ICJ's recent opinion (July 2025) provides a comprehensive legal framework for State obligations under international law, human rights, and the law of the sea, including clarity on State responsibility and reparations for climate harm. Meanwhile, the IACtHR's opinion (2023) established an "enhanced" human rights-based due diligence standard for climate action, effectively transforming Nationally Determined Contributions (NDCs) into justiciable legal obligations. Collectively, these rulings significantly strengthen international climate accountability and legal guidance.

The Advisory Opinion of the International Tribunal for the Law of the Sea

The advisory opinion of the International Tribunal for the Law of the Sea was requested by the Commission of Small Island States on Climate Change and International Law (COSIS).¹⁰ The request asked the Tribunal to clarify the specific obligations of States Parties to the UN Convention on the Law of the Sea (UNCLOS) to prevent marine pollution from climate change impacts and to protect and preserve the marine environment.¹¹ In 2024, the ITLOS issued its advisory opinion.

8 Organization of American States, American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123 (1969).

9 Derechos y garantías de niñas y niños en el contexto de la migración y/o en necesidad de protección internacional, Opinión Consultiva OC-21/14 de 19 de agosto de 2014, Serie A No. 21.

10 Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, Case No. 31, Advisory Opinion (Int'l Trib. for the Law of the Sea, May 21, 2024).

11 Ibid.

The advisory opinion notably recognised the conceptual integration of anthropogenic GHG emissions into the UNCLOS definition of "marine pollution," by differentiating the *direct* introduction of GHGs as substances, exemplified by the dissolution of atmospheric carbon dioxide into seawater, and the *indirect* introduction of energy, as GHGs trap thermal energy in the atmosphere, which is subsequently absorbed and stored by the ocean.¹² This recognition becomes essential as it provides the space to operationalise the UNCLOS extensive pollution control regime under Part XII, becoming an important tool to compel climate action and raise State liability for such pollution.¹³

Another implication of the advisory opinion relates to the State's responsibility not only to prevent marine pollution, but also to avoid, in case it occurs, that it spreads beyond its jurisdiction. The ITLOS recognised that there is a "stringent due diligence" standard applicable to this responsibility, "given the high risks of serious and irreversible harm to the marine environment from such emissions."¹⁴ Establishing that States have this "stringent due diligence" obligation to adopt all measures to ensure that specific events do not occur encompasses a commitment to achieve results in line with the scientific benchmarks identified in the Paris Agreement.¹⁵

The fact that ITLOS recognised that GHG pollution could be transboundary, and therefore a due diligence obligation of result is expected, goes well beyond the nature of the commitments included in the Paris Agreement, allowing the use of evidence-based metrics for assessing the State's conduct. Similarly, the ITLOS found that the United Nations Framework Convention on Climate Change and the Paris Agreement are not *lex specialis* concerning UNCLOS, but "are relevant in interpreting and applying the Convention with respect to marine pollution from anthropogenic GHG emissions".¹⁶ This establishes a synergetic relationship between the international obligations on climate change and marine pollution, reinforcing them and providing for climate accountability.

The Interamerican Court of Human Rights Advisory Opinion

Chile and Colombia submitted a request for an advisory opinion to the Inter-American Court of Human Rights (IACtHR), requesting the Court to clarify State obligations to respond to the Climate Emergency and Human Rights.¹⁷ This request aimed to clarify State obligations regarding climate change through the lens of human rights law by defining the duty of prevention in alignment with the Paris Agreement's 1.5°C target and the best available scientific evidence.¹⁸ In its opinion, the Court emphasised that addressing this emergency necessitates "urgent, effective, and coordinated actions, guided by human rights considerations and framed within the concept of resilience."¹⁹

12 Ibid., Para. 172.

13 UNCLOS, Article 232.

14 ITLOS, Advisory Opinion, para. 243.

15 Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104.

16 ITLOS, Advisory Opinion, para. 222.

17 Request for an Advisory Opinion on the Climate Emergency and Human Rights, Submitted by the Republic of Chile and the Republic of Colombia, Inter-Am. Ct. H.R. (Jan. 9, 2023).

18 Ibid.

19 I/A Court H.R., *The Climate Emergency and Human Rights* (Advisory Opinion AO-

Firstly, the Court recognises that the principle of Common But Differentiated Responsibilities (CBDR) is reaffirmed in the UNFCCC and the Paris Agreement. It interprets that, according to this principle, the reduction to 1.5°C goal is a “minimum starting point,” emphasising an evolving obligation for States to increase their ambition in light of scientific advancements.²⁰ This provides a legal basis for greater climate finance and technology transfer from developed to developing countries, recognising the link between their development status and ability to meet targets. In addition, cooperation must be interpreted through equity and CBDR, making climate finance and cooperation a legal imperative, following the Protocol of San Salvador,²¹ and it includes “all the measures required to respond integrally to the climate emergency.”²²

The IACtHR mandates an “enhanced” due diligence standard, requiring States to prevent human rights harms originating from the climate emergency. For the Court, this means an obligation for the States to provide thorough risk assessment, proactive and science-based prevention, integrating human rights to avoid new vulnerabilities, continuous monitoring, and ensuring access to information, participation, and justice.²³ It also recognises that, while specific measures may evolve and vary by national circumstances in application of the CBDR principles, the core obligation of prevention applies to all States.²⁴

The IACtHR also stressed that the right to an effective remedy, enshrined in Article 25(1) of the American Convention on Human Rights, and Article XVIII of the American Declaration on the Rights and Duties of Man, should aim at *restitutio in integrum*, recognising that where full restoration is not feasible, “measures must be adopted to guarantee the rights that have been violated and to redress the consequences of those violations”²⁵, making climate reparation comprehensive, integrating mitigation, adaptation, and resilience. The scope of “victims” could extend to affected ecosystems, supporting “rights of nature.” While acknowledging the Loss and Damage Fund, the Court notes it does not ensure “full reparation,” implying it’s a solidarity mechanism, not a legal liability regime. This reinforces that the Fund doesn’t absolve States of legal responsibility and calls for greater, non-debt-creating climate finance from developed nations as a matter of justice.²⁶

It is also important to note that the IACtHR refers to the impact of international investment agreements (IIAs), and recognises the position of the United Nations Expert Mechanism on the Right to Development, highlighting that IIAs are “frequently misaligned with the environmental and climate-related obligations undertaken by States.”²⁷ The Court also warns that Investor-S-

tate Dispute Settlement (ISDS) mechanisms cause a “regulatory chilling effect,” deterring climate action, and therefore requests States to protect human rights and the environment over investor predictability, urging States to review investment agreements and ISDS to avoid hindering climate efforts.²⁸

The IACtHR’s Advisory Opinion AO-32/25, in summary, establishes a comprehensive framework of State obligations, emphasising “enhanced due diligence,” the *jus cogens* status of environmental protection, the “rights of nature,” and a distinct human right to a healthy climate. It stresses the “regulatory chilling effect” of ISDS and underscores the imperative of inter- and intra-generational equity. This landmark Opinion demands urgent, transformative action, compelling States to align their domestic and international policies with the climate emergency and the fundamental rights of all persons.

The International Court of Justice

In the case of the International Court of Justice advisory opinion, the United Nations General Assembly had tasked the ICJ with addressing States’ climate change-related obligations, in line with the UN Charter, key human rights treaties, the UNFCCC and the Paris Agreement, and the UN Convention of the Law of the Sea (UNCLOS), along with the fundamental principles of international environmental law.²⁹ The request aimed at clarifying the obligations of States under international law to protect the climate system from anthropogenic emissions, in the interest of present and future generations and to clarify which are the legal consequences for those whose actions cause significant harm to the climate, particularly concerning their duties toward other countries that are especially affected and the peoples of present and future generations.³⁰

The ICJ advisory opinion confirms the duties of States to prevent significant environmental harm and to cooperate for environmental protection as binding customary international law.³¹ This prevention duty extends to “global environmental concerns”³² like climate change, requiring “stringent” due diligence, and creates a “legal safety net” ensuring fundamental obligations even if treaties falter. It considers that the customary duty to prevent significant environmental harm extends beyond direct cross-border pollution, specifically applying to the climate system.

According to the ICJ, the required conduct for due diligence is multifaceted, including taking precautionary measures based on scientific information, adhering to international standards, undertaking risk assessments, and engaging in notification and consultation with other States, all while considering each State’s

32/25, May 29, 2025), Series A No. 32, para. 183.

20 *Ibid.*, para. 478.

21 Organization of American States, *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* “Protocol of San Salvador,” O.A.S. Treaty Series No. 69, 16 November 1999.

22 Advisory Opinion AO-32/25, para. 256 – 259.

23 *Ibid.*, para. 236.

24 *Ibid.*, para. 237.

25 *Ibid.*, para. 556.

26 *Ibid.*, paras. 201-202.

27 *Ibid.*, para. 163.

28 *Ibid.*, para. 164.

29 Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change, G.A. Res. 77/276, U.N. Doc. A/RES/77/276 (Mar. 29, 2023).

30 *Ibid.*

31 International Court of Justice, *Obligations of States in respect of climate change* (2025), para. 124. Available from <https://www.icj-cj.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf> (accessed 29 July 2025).

32 *Ibid.*, para. 134.

respective capabilities.³³ Given the indisputably established and universal risk posed by climate change, the Court asserts that the standard of due diligence for preventing significant harm to the climate system is stringent, requiring a heightened degree of vigilance and prevention. This stringent standard is applied subject to the principle of common but differentiated responsibilities and respective capabilities, including the duty to prevent significant environmental harm, which applies to climate change and is a fundamental element of international law.³⁴

One essential element of the ICJ's advisory opinion is its rejection of the *lex specialis* argument, asserting that climate change treaties do not exist in a vacuum but rather establish a legal basis by other international law. It recognises that, while climate change treaties are principal instruments for addressing the global climate problem, their object and purpose do not contradict or supersede other established rules and principles of international law. Specifically, there is no indication that these treaties are intended to exclude general customary international law or other treaty rules pertaining to environmental protection.³⁵ Therefore, the ICJ affirmed that the principle of *lex specialis* does not result in a general exclusion of different international law rules by those treaties.³⁶

The ICJ also operationalises the principle of Common But Differentiated Responsibilities and Respective Capabilities (CBDR-RC), linking it directly to the due diligence standard. According to the ICJ, the principle CBDR-RC is a key manifestation of equity, acknowledging both historical responsibility and varying capacities among States in addressing climate change.³⁷ The Court considered that CBDR-RC, alongside sustainable development, equity, intergenerational equity, and the precautionary approach, are fundamental guiding principles for interpreting and applying relevant legal rules in this domain.³⁸ This recognition implies that States' obligations evolve with their capabilities, ensuring that developed nations undertake "more demanding measures to prevent environmental harm and must satisfy a more demanding standard of conduct"³⁹.

Furthermore, the Opinion recognises human rights law as an essential source of climate obligation, deeming environmental protection a "precondition for the enjoyment of human rights."⁴⁰ It establishes positive State obligations to mitigate and adapt to climate change to fulfil pre-existing human rights duties, thereby creating an essential legal and moral impetus for more ambitious climate policy. Likewise, addressing the complex issue of causation and attribution, the ICJ requires the existence of a "sufficiently direct and certain causal nexus" standard, endorsing attribution science.⁴¹ It clarifies that responsibility can be invoked even when multiple States are involved and that the cumulative nature of climate change does not create an insurmountable legal barrier to establishing causation.⁴²

³³ *Ibid.*, para. 136.

³⁴ *Ibid.*, para. 137.

³⁵ *Ibid.*, paras. 168-169.

³⁶ *Ibid.*, para. 171.

³⁷ *Ibid.*, para. 151.

³⁸ *Ibid.*, para. 161.

³⁹ *Ibid.*, para. 292.

⁴⁰ *Ibid.*, para. 373.

⁴¹ *Ibid.*, para. 436.

⁴² *Ibid.*, para. 437.

The ICJ's advisory opinion, in summary, profoundly transforms international climate law by establishing universal, binding duties of prevention and cooperation under customary law, with a "stringent" due diligence standard for the climate system. It rejects the *lex specialis* argument, integrating climate treaties with human rights and international law, creating a unified legal framework where treaty compliance is a floor, not a ceiling. The opinion operationalises CBDR-RC to calibrate obligations based on State capabilities and powerfully affirms human rights as a direct driver for climate action. The ICJ also confirms the full applicability of State responsibility rules, including compensation for harm, and provides a clear pathway for causation and attribution, ultimately shifting climate action from solely political negotiation to legally enforceable obligations with a right to full reparation for climate harm.

Conclusion and Recommendations

The advisory opinions from the International Tribunal for the Law of the Sea, the International Court of Justice, and the Inter-American Court of Human Rights serve as a powerful catalyst, crystallising key climate-related principles into customary international law. While the Paris Agreement relies on nationally determined, voluntary contributions, these courts are poised to affirm that a set of core obligations exists independently of that treaty regime, binding all States as a matter of custom.

The courts have confirmed that the customary no-harm rule and the polluter-pays principles apply unequivocally to the harm caused by anthropogenic greenhouse gas emissions, which could establish a universal legal duty for all States to mitigate their emissions. Furthermore, the courts recognised State due diligence as a "stringent" and "enhanced" standard that must be measured "objectively" against the "best available science" of bodies like the Intergovernmental Panel on Climate Change (IPCC) and the globally agreed-upon temperature goal. This reaffirmation of the duty of States to prevent the effects of climate change could transform the due diligence standard from a vague notion of "best efforts" into a concrete, science-based legal benchmark.

Finally, the opinions, particularly from the ICJ and the IACtHR, are expected to reinforce the nexus between climate change and human rights. This would clarify that States have positive obligations under existing human rights treaties to protect individuals from the adverse impacts of climate change and empower individuals and communities as rights-holders, turning climate action into a matter of rights. States could transition from treating climate commitments as declarations to recognising them as legally binding obligations grounded in customary international law.

As part of this process, States could increase their efforts towards aligning domestic legislation to ensure they are consistent with the "stringent" and "enhanced" due diligence standards, as recognised by the Advisory Opinions. Likewise, the Nationally Determined Contributions (NDCs) should be revised to strengthen their implementation.

The advisory opinions will also serve as an important tool to continue and reinforce the reform of international investment agreements. In particular, the IACtHR's opinion serves as a means for States to proactively review and amend international investment agreements, thereby preventing the “regulatory chilling effect” of investor-state dispute settlement (ISDS) and explicitly protecting the sovereign right to regulate in the context of climate action.

The advisory opinions also provide a significant legal leverage that could be systematically integrated into negotiation forums and diplomatic discussions. In international forums such as the UNFCCC, developing countries could strengthen the debate on loss and damage contributions as matters of legal obligation and reparation, rather than voluntary funds.

In addition, court interpretations can build a unified front for enhancing accountability mechanisms with clear, science-based benchmarks for compliance. The jurisprudence derived from these opinions provides a robust foundation for holding States and corporate actors accountable, as it establishes a nexus between climate change and human rights. This nexus is used to argue that States have positive obligations to protect their populations from climate-related harm.

Finally, practitioners and communities can utilise the principles of causation and responsibility clarified by the ICJ's guidance on establishing a “sufficiently direct and certain causal nexus” to identify pathways for attributing responsibility for climate damages and securing remedies, in particular for the most vulnerable populations to climate change, often facing a combination of geographic exposure, poverty, and social marginalisation.

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The South Centre
International Environment House 2
Chemin de Ballexert 7-9
1219 Geneva
Switzerland
Tel.: +41 22 791 8050
south@southcentre.int
<https://www.southcentre.int>

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