

Vindicating Pacific climate leadership: what does the ICJ decision mean?

by Bal Kama

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The International Court of Justice handed down its Advisory Opinion on the legal obligations of States in relation to climate change, 26 July 2025.

Photo Credit: Pacific Island Students Fighting Climate Change

On 26 July 2025, the International Court of Justice (ICJ) handed down its long-awaited **Advisory Opinion** on the legal obligations of states in relation to climate change. The judgment reaffirmed that states have a legal duty not just to reduce carbon emissions, but to protect the environment and respect the human rights of those affected by environmental harm and climate change, including future generations.

For people in the Pacific, this moment was more than a legal milestone — it was the realisation of an intergenerational vision nurtured by our youth, championed by our diplomats and secured by our collective belief in justice. This journey began in a humble classroom with **a group of law students** at the University of the South Pacific in Vanuatu. Motivated for justice, the students inquired into how they can seek greater climate justice for their Pacific people. It led to a proposal from the students to the government of Vanuatu for its backing for an ICJ application as only states are eligible to initiate an ICJ court action.

Embraced later by the Pacific Islands Forum, this grassroots movement rapidly galvanised global support, eventually leading to a successful resolution at the United Nations General Assembly in March 2023 for an ICJ Advisory Opinion. Over 100 countries were involved in making their submissions at the ICJ, culminating into the biggest ever ICJ court proceeding in history.

Vanuatu's leadership, firmly supported by other Pacific countries, in mobilising the global community is emblematic of the region's growing potential to shape global affairs. For large ocean nations with minimal global emissions but maximal climate vulnerability, going to the ICJ was a bold assertion of voice and agency.

The Vanuatu-Pacific led mission not only encountered challenges to get to the ICJ but inside the halls of the court. Australia, alongside other major fossil fuel-producing states such as Saudi Arabia, the United States and China, **fiercely argued against the scope of submissions put to the ICJ for climate harm and responsibility.**

Australia, for instance, argued that it bore no legal responsibility for the emissions caused when its fossil fuels were burned overseas and that any responsibilities should be addressed with existing international frameworks such as the Paris Agreement.

The International Court of Justice disagreed. It ruled that states have a larger responsibility beyond existing Paris targets to adopt additional measures to meaningfully prevent climate harm and that failing to do so may constitute a wrongful act and thus a breach of state responsibility.

The ICJ Opinion made several significant findings including:

- a) **Obligation to prevent harm.** The Court affirmed that states have legal obligations under international law to prevent significant harm to the environment, particularly when such harm affects other states and peoples.
- b) **Human rights linkage.** The Court recognised the direct connection between climate harm and the infringement of fundamental human rights including the rights to life, health and a healthy environment.
- c) **Intergenerational equity.** Importantly, the court acknowledged that obligations extend not just to present populations but to future generations — a principle long championed by Pacific leaders and customary philosophies. In PNG, the National Goals and Directive Principles in the Constitution underpin this spirit.
- d) **Global cooperation.** The judgment stressed that the Paris Agreement and other instruments require sincere international cooperation, but that states cannot hide behind collective frameworks to excuse inaction.
- e) **Perpetuity of statehood.** States affected by climate change should maintain their existing territorial boundaries and statehood irrespective of climate impact, even if the population is completely displaced or the territory is under water. Ordinarily, under the Montevideo Convention, physical territory and defined populations are requirements to maintain statehood. The ICJ has essentially created an exception.

But this work started earlier, undertaken by Tuvalu. It championed this legal innovation as part of a **constitutional reform** in 2023, where Tuvalu was the first country in the world to declare in its constitution **the perpetuity** of its statehood.

As with statements from all UN agencies, the ICJ opinion does not carry binding force like a judgement in a domestic case. But the ICJ is the highest authority on international law, and its authoritative interpretation of legal obligations under international law elevates its judgment to the status of global legal guidance — a

compass for national courts, policymakers and civil society.

To act outside of their opinion would be undesirable, and deemed contrary to the rules-based international order, the rule of law and state responsibility.

As **some analysts** have concluded, this decision means the “era of impunity” for climate harm is over.

For many in the Pacific, this outcome has rekindled hope in a world order that has too often overlooked their pleas. For decades, the Pacific has witnessed weaknesses and disappointments in international systems — witness the deferral of justice for West Papua, impunity in the context of Israel-Palestine and the continued failure of global climate negotiations. International climate meetings such as **UN COP meetings**, despite the associated fanfare, have consistently left Pacific states disappointed with little in the way of meaningful outcomes.

Yet, the ICJ process stands in contrast. It demonstrated that when small states act with conviction, strategy and solidarity, they can turn the wheels of international law in their favour, achieving compelling outcomes. It has shown that even in a world of geopolitical imbalance, principles can triumph.

For the upcoming COP31 in 2026, meaningful outcomes should now be expected on the back of the ICJ Decision.

This moment underscores something the Pacific has always known — leadership is not defined by population or GDP, but by moral authority and vision. By bringing the ICJ into the climate fight, the Pacific has reshaped the terrain of global environmental law. It has placed the rights of small states and vulnerable communities at the centre of legal accountability. It has offered a roadmap for justice when diplomacy stalls and emissions rise.

The ICJ opinion has vindicated the Pacific’s standing as not a passive victim of climate change, but as an active agent of global conscience.

The advisory opinion must now become a tool for national and regional action. Pacific Island governments and courts can integrate its findings into domestic law and litigation. Civil society can use it to hold governments accountable. Pacific people will expect Australia, New Zealand and others to do the same.

The obligations articulated in the ICJ Decision will also be part of the calculus of expectations of Pacific Island countries in connection with the actions of countries vying for geopolitical advantage in the Pacific. For the Pacific, the basis for expecting other countries to act on climate change has now gone past bilateral and

multilateral agreements and is now a matter of international law, with expectations for compliance.

At a time when international institutions are under scrutiny, the ICJ has delivered a moment of legal and moral clarity — one that carries the voice of the Pacific to the world.

In doing so, it has given our Pacific youth — the original architects of this movement — a powerful affirmation: that their cause was right, their voice matters and the world is listening. That must reverberate in all corners of the Pacific to rekindle belief in the potential of our people and especially our youth — that, given the right opportunity, they can leave an indelible mark on the course of history.

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