

World Court Declares Climate Change Response a Fundamental Duty of International Law



On July 23, 2025, the International Court of Justice (ICJ), aka, World Court, issued a landmark ruling unanimously affirming that not only do all sovereign states have a duty under international law to combat climate change but also that they can be held legally accountable for failing to meet that duty. The ruling is the most important development in international climate change response law since the Paris Agreement, according to some legal experts. Here's a quick briefing on the 140-page Advisory Opinion and what it may portend in Canada and across the world.

Setting the Stage

The Advisory Opinion is important because it's the first time that the World Court has weighed in on the fundamental question of where international climate change laws come from. Countries that emit large volumes of greenhouse gases have long argued that states are only required to take the actions they agree to in climate change treaties like the Kyoto Protocol and Paris Agreement and that the binding nature of even those obligations is limited. Other nations contend that a nation's climate change duties derive from general customs, human rights, and other duties to the global community embedded in broader international law.

Against this backdrop, the UN General Assembly passed a resolution in 2023 requesting the ICJ to issue an advisory opinion on the scope of states' climate change obligations under international law, specifically:

1. What are international state obligations to protect the climate system from greenhouse gas (GHG) emissions to ensure the well-being of both present and future generations?
2. What are the legal consequences for states that, through actions or omissions, cause significant climate harm?

The ICJ Ruling—A State's Climate Change Obligations Under International Laws

In addressing the first question, the ICJ clarified just how deeply a state's climate change obligations run under international law:

- The obligations of states to protect the climate system from GHG emissions contained in climate change treaties and other multilateral environmental agreements are binding.
- Climate change duties are also part of customary international law that applies to all states, including the duty to act with due diligence to prevent significant harm to the environment and cooperate in good faith to prevent significant harm.
- Protecting the climate is also part of a state's fundamental obligations to respect and ensure the effective enjoyment of human rights under international human rights law.

The ICJ also specified that a state's duty to exercise due diligence includes responsibility for regulating GHG emissions

by private actors within their jurisdiction.

The ICJ Ruling—Accountability

Having explained the nature of a state's climate change duties, the ICJ proceeded to the accountability question. A breach of any of these obligations constitutes an internationally wrongful act for which the state is responsible, according to the Advisory Opinion. Potential consequences may include legal action against the state requiring it to:

- Cease its wrongful actions or omissions.
- Provide assurances and guarantees not to repeat those wrongful actions or omissions.
- Make full reparation to injured states in the form of restitution, compensation, and satisfaction, based on its responsibility for the harms caused by its wrongful actions or omissions.

Emissions can, in fact, be attributed to individual states via scientific evidence, the ICJ adds. This enables states to invoke legal responsibility. Moreover, a state's legal obligations to protect the environment from GHG emissions, especially the customary international law duty to prevent transboundary harm, are what lawyers call *erga omnes*, Latin for "towards all," meaning that they they're owed to the entire international community and not just particular states. **Translation:** Any state can bring legal action against another state for violating its international GHG emissions duties.

Takeaway

Although not legally binding, ICJ advisory opinions have potentially significant ramifications in all parts of the world that recognize and abide by international law. While global climate change negotiating and treaty making date back

to 1972, never before had an international court of the ICJ's standing issued an opinion interpreting climate change as being not just a treaty obligation but a fundamental duty of international law.

The immediate impact of the ruling will most likely be felt in domestic and international climate change litigation. In addition to strengthening their hand in current cases, the opinion may embolden supporters of climate change regulation to file more lawsuits against governments and private GHG emitters. It also opens the door for non-emitting states to sue Canada, the U.S., and other high-emitting nations.

The potential liability risks that the ICJ outlined may also exert a chilling effect on the issuance of new fossil fuel licenses, permits, and subsidies. According to the Advisory Opinion: "[A] state's failure 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 licenses, or the provision of fossil fuel subsidies may constitute an internationally wrongful act."