

# Judging Climate Justice

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## Judging Climate Justice: The ICJ's Advisory Hearing on Global Responsibilities

### Context :

The annual climate talks in **Baku, Azerbaijan**, left developing nations disappointed, with developed countries committing just **\$300 billion annually** in climate finance, far short of the **\$1.3 trillion** demanded.

In response, developing nations, led by small island states, escalated the issue to the **International Court of Justice (ICJ)**, which began hearings on **December 2** to seek an advisory opinion on nations' climate obligations and the legal consequences of non-compliance.

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### About the International Court of Justice (ICJ)

#### Establishment and Location

- The ICJ is the **principal judicial organ of the United Nations (UN)**, established in **1945** under the UN Charter and operational since **1946**.
- Located at the **Peace Palace in The Hague, Netherlands**, it is the only UN organ not based in New York City.
- Its official languages are **English** and **French**.

#### Role

- Settles **legal disputes** between States based on international law.
- Provides **advisory opinions** on legal questions referred by authorized UN organs and agencies.

#### Composition

- The ICJ comprises **15 judges** elected for **nine-year terms** by the UN General Assembly and Security Council.
- Judges can be re-elected, and the **president** and **vice-president** are chosen for **three-year terms** through a secret ballot.

#### Jurisdiction

- All UN members are automatically parties to the ICJ statute, but the court's jurisdiction

applies only if both parties consent.

- ICJ judgments are **final and binding**, with no provision for appeal, though revisions can occur in light of new evidence.
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## Background: The Case

### UNGA Resolution Initiated by Vanuatu

- The case originated from a **March 2023 UNGA resolution** spearheaded by **Vanuatu**, a Pacific Island nation threatened by rising sea levels.
- Supported by **132 countries**, the resolution sought an **ICJ advisory opinion** on nations' climate obligations under international law.
- **India** did not co-sponsor the resolution, voicing concerns about using judicial processes over diplomatic efforts for climate action.

### Key Questions Raised

1. What are nations' obligations under international law to protect the climate system?
  2. What are the legal consequences for nations failing to meet these obligations?
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## Significance of the ICJ Hearing

### Impact of the Advisory Opinion

- While **non-binding**, the ICJ's advisory opinion could influence global climate governance by broadening the legal basis for climate obligations and highlighting consequences for non-compliance.

### Expanding Climate Obligations

- The ruling may assert that developed nations' climate responsibilities extend beyond the **UNFCCC** and **Paris Agreement**, incorporating other frameworks like:
  - **UN Convention on the Law of the Seas**
  - **Universal Declaration of Human Rights**
  - **Convention on Biological Diversity**

### Potential Precedent for Climate Litigation

- An ICJ opinion could strengthen global climate litigation.
  - As of 2023, over **2,600 climate cases** have been filed worldwide. Notable precedents include:
    - The European Court of Human Rights ruling on Switzerland's emission targets as a **human rights violation**.
    - India's Supreme Court recognizing **protection from climate impacts** as a fundamental right in April 2023.
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## India's Role

- India will present its submission on **December 5**, emphasizing the importance of **diplomatic solutions** and rejecting a **top-down approach** to addressing climate change.

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