

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.

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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