



# HISTORIC CLIMATE HEARINGS AT THE INTERNATIONAL COURT OF JUSTICE

**DAILY DEBRIEF**

December 5th, 2024





## In a Nutshell

Today...

- Today was a BIG day for climate justice. **Ghana**, **Grenada**, and **Sierra Leone** fortified the critical need for debt cancellation as a form of reparation, arguing that States face a crippling financial cycle of borrowing to rebuild after extreme weather events, leaving them trapped in debt and unable to recover fully or prepare for worsening climate impacts.
- The right to self-determination was central to today's interventions, with **Sierra Leone**, the **Cook Islands**, the **Marshall Islands**, and the **Solomon Islands** highlighting how climate change threatens the statehood of Small Island States already burdened by colonial legacies. Outside the courtroom, Indigenous Peoples' representatives echoed these concerns, sharing testimonies on climate impacts on their rights – voices excluded from the Court due to its restrictive procedures.
- The majority of States appearing before the Court today stressed the importance of intergenerational equity as essential to achieving climate justice. **France**, **Ghana**, **Guatemala**, **India**, the **Marshall Islands**, and **Grenada** all emphasised it as a principle of law with the latter two stressing the importance for the Court to address human rights States' obligations owed to future generations. These interventions provided a strong rebuttal to other States that had sought to dismiss such obligations without offering compelling legal arguments.

Other countries that argued in front of the Court: **Iran** and **Indonesia**.



## Today's Reactions

Quotes can be used by journalists for their reporting. For questions or follow up, please reach out to Quint van Velthoven at [quint@wy4cj.org](mailto:quint@wy4cj.org)



*Ghana's oral submission stood out as a call for climate accountability. Ghana reminded the Court that States today are the custodians of present and future generations. It criticised the U.S. submission, rejecting claims that responsibility can not be found in any existing treaties and emphasised the need to address historic injustices.*

NOEMI ZENK-AGYEI (24), GHANA AND GERMANY,  
CAMPAIGNER, WORLD'S YOUTH FOR CLIMATE JUSTICE AND CO-FOUNDER OF UNION FOR THE  
NEW GENERATION OF AFRICAN AND EUROPEAN YOUTH (UNGAE)



## Outside the Court

At the People's Assembly, testimonies from Greenland, Inupiaq People, Cabo Verde, Aruba, and West Papua shed light on the interconnectedness of climate change and colonialism. Michael Bro of Greenland emphasised, "The climate crisis we face is not just an environmental issue—it is a colonial issue. The climate crisis and the denial of our Inuit national identity are deeply intercon-

-nected. We are not asking for special treatment; we are asking for the respect and recognition that is our Human Rights as Indigenous Peoples.”



Pacific Islands Students Fighting Climate Change



World's Youth for Climate Justice

A Traditional Hui (Indigenous event) also discussed how Indigenous knowledge and laws could strengthen global legal frameworks and ensure equity in addressing the climate crisis.

In Vanuatu, UN Special Rapporteur Elisa Morgera called on the ICJ to recommend remedies like restitution, rehabilitation, and guarantees of non-repetition, implemented through inclusive processes involving affected communities.

## Witness stand

The Witness Stand was established to make sure that the ongoing **ICJ advisory opinion proceedings on climate change are more inclusive and representative of those most affected**. Using this, anyone can send their message to the World’s Highest Court as it rules on climate change for the first time.



[Watch the other testimonies](#)

## Next day

Tomorrow, Friday, 5 December, we will report back on the oral submissions delivered by the following States: Jamaica, Papua New Guinea, Kenya, Kiribati, Kuwait, Latvia, Liechtenstein, Malawi, Maldives, and the African Union.

If you found this daily debrief useful and informative, please share the [Daily Briefing sign-on link](#) more widely.



# Report on each Intervention

## France

France stressed the role of the Court in clarifying the obligations of States, while submitting that the primary source of climate obligations are found in the three climate treaties. It added that the decisions of the UNFCCC Conferences of Parties should be used to interpret the obligations of States under the climate treaties, and mentioned the consensus decision at COP28 that States should transition away from fossil fuels in an equitable and just manner. On the obligations of States, France focussed its intervention on Article 4(2) of the Paris Agreement, on the obligation of States to take measures domestically in order to meet the emissions reductions set out in their Nationally Determined Contributions (NDCs). It argued that it is an obligation of conduct, but that does not mean that it can be used to justify “inaction or inertia,” instead providing for flexibility to changing circumstances. France also stressed the importance of the principle of constant progression in determining the NDCs, requesting the Court to address that in its opinion. France submitted that the high risk of significant harm caused by greenhouse gas (GHG) emissions means that the principle of prevention should be applied alongside an enhanced due diligence by States. It also pointed out that the obligation of Article 4(2) must be compatible with both the positive and negative human rights obligations of States and intergenerational equity.

On legal consequences, France submitted that the law of state responsibility framework is not sufficient to address harms caused by climate change - and, indeed, that the Paris Agreement had its own mechanisms to address loss and damage that were outside of the state responsibility framework. It also argued that the finding of responsibility of one or more States is beyond the scope of the advisory opinion, but that guidance from the Court would be welcome on two matters. Firstly, the specific date from which States have an obligation to prevent significant transboundary harm caused by GHG emissions - which requires, in turn, the identification of a shift in international law from a duty to prevent transboundary harm from neighbouring States to a duty that is more global in nature, and the identification of the moment when States became aware that GHG emissions were harmful. France submitted that the 1992 Rio Declaration would be a key date in the formation of a global *opinio juris* on this obligation. Secondly, the criteria for establishing causation between the actions or omissions of a State and the harm suffered by another as a result of climate change, which, France argues, would also need to be determined on a complex case-by-case basis.

*France’s submission had both positive and negative arguments. While it should be commended for taking into account historical emissions in respect of the legal consequences, France’s attempt to present what it called “solidarity” mechanisms of the Paris Agreement as a complement to the well-established framework of state responsibility must be called out - the non-compliance mechanisms of Paris and the loss and damage fund were never intended as a substitute to state responsibility for unlawful acts. Similarly, in relation to the obligations of States, despite having primarily focussed on one obligation under the Paris Agreement, France’s recognition that human rights law is relevant to the advisory opinion and that customary international law is also relevant nuances what would otherwise be an extremely restrictive submission - with its submission that the principle of prevention in the climate context requires a heightened due diligence (in a similar vein to what ITLOS found in its recent advisory opinion) being surprisingly progressive for a high emitting State.*

## Sierra Leone

Sierra Leone gave a compelling presentation on the need for a comprehensive approach that integrates various legal regimes, including environmental, human rights, and the law of the sea, to clarify the totality of legal obligations of States to act on climate change, in particular, the obligation to adopt all necessary measures to limit the increase in global average temperature to 1.5 degrees Celsius. Sierra Leone emphasised under question A that States have an independent obligation of prevention under customary international law, which is not context-specific and does not allow for discretion. Sierra Leone's legal counsel argued that due diligence, as informed by the IPCC reports, entails proactive measures, including environmental impact assessments, and extends beyond the commitments of climate treaties. It also underscored the relevance of human rights law, advocating for its application to protect individuals from harm caused by climate change and highlighting, in particular, the right to life. Sierra Leone also asserted the necessity of the common but differentiated responsibilities (CBDR) principle, urging developed countries to lead in combating climate change and highlighting that they have a binding legal obligation to provide financial and technical assistance to developing States.

Sierra Leone offered a powerful rebuke to the arguments of certain States that binding climate obligations interfere with their right to development, rather than maintaining that sovereignty over natural resources must align with environmental responsibilities. On question B, Sierra Leone came out strongly on the need for the Court to determine that greenhouse gas emissions cause material and non-material damage and that States responsible for such damage are obligated to provide full reparation. On this point, Sierra Leone invited the Court to detail the consequences of breaching climate obligations, including reparation for climate-related harm and highlighting that the debt burdens of developing countries, particularly in Africa, hinder their ability to address the climate crisis, often forcing them to allow environmentally harmful activities to secure funds, and called for breaking this unsustainable cycle.

*Sierra Leone provided a compelling legal argument on the need for a harmonious interpretation of all sources of law and the best available science to answer the Court's question, debunking the arguments of high-emitting States like the United States that the due diligence obligation is context-specific. Sierra Leone also came out strongly against the argument that obligations to act on climate change hinder States' right to self-development, instead arguing that sovereignty over natural resources must align with environmental responsibilities. Similar to what was argued later in the day by the Solomon Islands, Marshall Islands, and Grenada, Sierra Leone called on the Court to find that States that cause material damage due to climate change are obligated to provide full reparation. Sierra Leone urged the Court to affirm States' margin of appreciation to regulate in the public interest, including oversight of private actors, enabling climate action without fear of spurious investor claims. Echoing Albania and Cameroon, Sierra Leone emphasised balancing climate obligations with investor protections and clarifying the interplay between international investment law and climate obligations to support a just transition. In light of recent frivolous claims brought forth by the fossil fuel industry seeking compensation in the form of taxpayer money, the Court would send a particularly timely and relevant signal if it was to address the primacy of the public interest over the profits of investors.*

## Ghana

Ghana made persuasive arguments on the applicability of obligations under customary law and treaties, the interdependence of climate action and protection of human rights, and the

importance of accountability mechanisms. It also underscored the relevance of principles such as common but differentiated responsibilities and respective capabilities (CBDR-RC) and the duty of prevention under customary international law, which operate alongside climate treaties. Ghana further highlighted the link between climate change and human rights obligations, particularly regarding the right to a healthy environment.

On the applicable law, Ghana highlighted that States have pre-existing obligations on climate change that extend beyond climate treaties, including the prevention of environmental harm and the protection of human rights. Regarding prevention of harm, Ghana noted that at least since 1979, with the adoption of the Long-Range Transboundary Air Pollution Convention, States have been aware of pollution caused by GHG emissions. Ghana also argued that the obligation to limit global warming below 1.5°C is not being fulfilled by some States, and thus, “if the conduct is not achieving the result, then countries are obliged to change their conduct.” States also have positive obligations to protect human rights from climate change, including the right to life and the right to a healthy environment, which constitutes binding international law and is a precondition for the enjoyment of other human rights. Ghana strongly argued that the UN’s recent recognition of this right constitutes important evidence of its binding nature, alongside its codification in regional frameworks such as the African Charter on Human and Peoples’ Rights.

In support of Vanuatu’s submission, Ghana countered the arguments of the Nordic States and argued that State responsibility is not excluded by climate treaties. On the contrary, Ghana stressed that science can determine the share of global warming caused by a State through its emissions and the harm caused to the climate system. Therefore, Ghana argued that responsible States owe reparations to injured States. Cessation and non-repetition require that States cease and desist from laws, policies, and practices that support GHG emissions and, in particular, fossil fuel production.

*Ghana’s legal arguments centred on the interplay of customary international law, human rights, and State responsibility. It stressed that obligations to prevent environmental harm and protect human rights, including the right to a healthy environment, exist independently of and operate in tandem with the climate treaties. Ghana also called on its global partners to honour their commitment to ensuring accessible financing for sustainable development in Africa without unsustainable debt. Ghana underscored Earth trusteeship by stating that “States hold a sacred trust of civilisation to protect the environment, so that beneficiaries of international law and other species may be able to survive and prosper for generations to come.”*

## Grenada

Grenada presented compelling video testimony illustrating the devastating impacts of Hurricane Beryl, emphasising the widespread destruction it caused across the island. Its counsel highlighted the loss of infrastructure compounded by rising sea levels and the spiritual harm caused by extreme events, such as submerged graves. The delegation emphasised how climate change disproportionately affects the most vulnerable, especially women and children, infringing upon their human rights and causing significant mental and physical health impacts. Grounding its arguments in the urgency of the climate crisis, Grenada’s representative underscored that countries contributing minimally to global emissions, like itself, bear an outsize burden of its consequences. Grenada’s counsel discussed the obligation of States to act as trustees of the climate system for future generations - including by relying on previous judgements and advisory opinions of the Court.

The counsel argued that the public trust doctrine, which is a core legal principle in the legal traditions of countries across all continents, could provide a valuable legal basis for such a finding. Grenada invoked the principles of Earth trusteeship and intergenerational equity as rooted in ancient traditions and codified in modern legal instruments, with references to the Earth Charter and the Maastricht Principles. States were called upon to collectively fulfill their obligation as trustees, with Grenada clarifying that the climate system is not a dumping ground—States have a shared global responsibility to protect it. Grenada urges global action to break the debt-climate crisis cycle by demanding reparations, debt relief, and enhanced support for vulnerable nations.

*Grenada decisively challenged Germany's rejection of the idea that human rights obligations extend to future generations. It disagreed that the notion of future generations is too abstract to warrant protection, emphasising that no legal basis supports such a restrictive interpretation of human rights law. Instead, Grenada drew on established legal norms and precedents to affirm that intergenerational equity is both a legitimate and necessary principle. This stance aligns closely with the UN General Assembly's explicit request for the Court to examine the link between insufficient emission reductions and the harm inflicted on future generations. Grenada's recognition of the role of young people in this discourse was particularly powerful. By highlighting the contributions of groups such as Pacific Islands Students Fighting Climate Change and World's Youth for Climate Justice, Grenada underscored the urgency of their demand for the Court to issue an opinion that accelerates the transition away from fossil fuels.*

## Guatemala

Guatemala underscored from the outset of its presentation the broad consensus that prompted the ICJ to take up this process. Its legal counsel highlighted that the climate impacts affecting Guatemala are not only disproportionate on a global scale but are also particularly severe for Indigenous Peoples who depend on natural resources for their livelihoods. Guatemala argued that the climate treaties do not exclude or override other legal frameworks, such as international human rights law and the principles of State responsibility, which should be interpreted and applied by the Court in answering both questions before it.

Guatemala's legal counsel argued that the questions posed are "clear and unambiguous" reflecting the consensus of the UN General Assembly, and thus must not be reformulated. Guatemala noted that the protection of the climate system and other parts of the environment includes the protection of their constitutive elements, including the cryosphere. Accordingly, the Court should also pay attention to the effects of harm to the climate system on living and nonliving parts of nature and future generations. Guatemala explained that the Court should interpret the relevant provisions of the climate treaties harmoniously with concurrent international obligations in order to prevent fragmentation of international law. Specifically, when referring to the prevention of transboundary environmental harm, Guatemala highlighted that causation only relates to the occurrence of damage but not international responsibility in of itself. In this regard, Guatemala argued that causation is not a precondition for establishing a breach of the duty to prevent, but may be relevant for determining applicable reparations for which the Court must keep in mind the scientific consensus on climate change and the principle of CBDR-RC.

*Guatemala presented to the Court an ecosystem and intergenerational approach to broaden the understanding of applicable law and the interpretation of the climate treaties. It reiterated that the*

*climate treaties regime is not intended to exclude other obligations, such as the protection of the right to a healthy environment, the duty to cooperate, and preventive obligations. Guatemala concluded by countering polluters' arguments that a special causal nexus is needed to determine a breach of the duty to prevent harm, urging the Court to provide the necessary legal guidance for vulnerable countries.*

## **Cook Islands**

The Cook Islands, addressing the Court for the first time ever, highlighted the urgent need for climate justice for vulnerable and resilient Small island States. Emphasising the unique vulnerabilities of Pacific Island nations, they attributed their climate challenges to the cumulative, historical, and ongoing anthropogenic emissions of a small number of States. Such emissions breach a range of international obligations on human rights and anti-discrimination. The breach of these obligations lead to a disproportionate impact on Indigenous Peoples and marginalised populations, particularly through racial and gender discrimination. This entails the need for structural remedies, including decolonial and intersectional legal reforms at domestic, regional, and international levels, to address these harms and prevent their recurrence.

The Cook Islands stressed various forms of colonial legacies and their impacts on climate change and elaborated on how they shape the unlawful conduct of States as explained by Vanuatu and the Melanesian Spearhead Group. They presented video testimony of Cook Islands women who are custodians of their cultural heritage and Indigenous ways of livelihood like traditional knowledge and cultural handicrafts. The Cook Islands emphasised their current vulnerabilities to systemic colonial practices, such as the suppression of Indigenous knowledge, language, and environmental stewardship linked to colonial policies that disrupted traditional practices, undermined environmental resilience, and exacerbated their susceptibility to climate change. They stated that these kinds of unlawful conduct violate human rights which apply beyond national territory. The Cook Islands also emphasised that these colonial dynamics, which disproportionately harm Indigenous populations, constitute racial discrimination. Thus, the ongoing perpetuation of these systems by former colonial States, in itself leads to breaches under existing international law. The Cook Islands further stressed a need for a decolonial approach to climate justice that recognises the structural inequalities embedded in international legal, financial, and political systems and institutions.

Finally, the Cook Islands advocated for reparations and a reformative approach to international law, divorcing from the current systemic inequalities and discrimination. They urged the Court to guide States toward decolonising international law, and ensuring that it addresses structural racial and gender injustices while empowering Indigenous Peoples. Responding to question two, they argued that reparations must extend beyond compensation to include apologies and commitments to cease and desist practices that perpetuate discrimination causing climate harm. They also argued that structural remedies in this context are beyond victim-specific remedies to avoid the recurrence of violations. They went on to submit that international legal, financial, and political systems are deeply implicated in causing the climate crisis by stating, "Major emitters have been able to rely on these systems in the institutions and the fora they contain like the annual COPs, to expand fossil fuel industries and evade responsibility for significant harm the emitters have caused." They further went on to state that these systems "maintain the broader system of domination that drive the climate crisis today including imperialism, colonialism, racial capitalism, hetero-patriarchy, and ableism." They suggested structural reforms to redistribute power and resources equitably and intersectionality. The Cook Islands concluded by inviting the Court to seize this opportunity to clarify international



obligations in a way that facilitates climate justice, self-determination, and the creation of an equitable global order.

*The main theme coming out of the Cook Islands submission was that the perpetuation of colonial legacies is a breach of international obligations in itself and that it also determines the disproportionate impacts of climate change on marginalised communities and Indigenous Peoples. These violent patterns include racial and gender discrimination, rooted in colonial legacies that suppressed traditional knowledge, disrupted environmental resilience, and exacerbated vulnerability to climate change. Advocating for a decolonial approach, they emphasised the need for structural legal reforms at all levels to dismantle systemic inequalities embedded in international systems, extending beyond financial compensation. The Cook Islands concluded by urging the Court to provide a transformative advisory opinion clarifying international obligations to ensure climate justice, self-determination, and equitable global order.*

## **Marshall Islands**

The representative for the Marshall Islands emphasised the parallels between the nation's pollution by nuclear testing and the existential threat posed by climate change, both inflicted by the actions of other States for their own enrichment. Rising sea levels are effectively stealing the Marshall Islands' land, threatening its self-determination and violating fundamental human rights of its people. Recalling the Paris Agreement as a vital acknowledgment of the climate threat, the representative expressed deep concern over major emitters' failures to meet their obligations, particularly through expansion of fossil fuel production. The representative urged the Court to affirm the binding nature of States' legal obligations to protect vulnerable nations and underscored the urgency of addressing the human cost of inaction. The Marshall Islands noted that States have a duty under customary international law to prevent environmental harm, act *with due diligence*, and ensure their actions do not cause transboundary damage that violates human rights. *The Marshall Islands also stressed that these human rights obligations include a duty to protect from the foreseeable acts of private actors who are within their effective control and to provide effective remedy.*

*The Marshall Islands highlighted the importance of intergenerational equity, recalling its recognition by the Court in the nuclear weapons case. Their counsel proposed that States' failures to prevent transboundary harm trigger an obligation to halt harmful policies, including through adjustments to insufficiently ambitious nationally determined contributions and the end of fossil fuel subsidies and fossil fuel expansion. The Marshall Islands also insisted on the legal duty for States responsible for climate harms to provide compensation for damages already incurred, such as for internally displaced persons.*

*The Marshall Islands' testimony underscored how climate change gravely threatens the right to self-determination—a cornerstone of international law—particularly for Small Island States. This threat is compounded by the lingering legacy of colonialism, exemplified in the Marshall Islands by its history of nuclear testing. In their oral submission, the Marshall Islands' Attorney General joined other representatives of climate-vulnerable nations in urging the Court to act. These Attorney Generals, bound by their constitutional duty to uphold the law and protect their people's rights, have lamented their inability to adequately discharge this duty in the context of climate threats originating beyond their jurisdiction. Such testimonies highlight the untenable position of States denying that their human rights obligations extend beyond their territory. They also emphasise the*

*urgent need for judicial recognition of these duties. The Court's judges are uniquely positioned to address these claims, offering a pathway to justice for nations disproportionately bearing the consequences of global climate inaction.*

## **Solomon Islands**

The Solomon Islands commended Pacific Island nations and students for their leadership in advocating for this opinion and expressed gratitude to Vanuatu for its passion and commitment to the cause. It highlighted the country's extreme vulnerability as a developing nation reliant on agriculture and at risk from rising sea levels, with five islands already lost and others facing severe erosion. These impacts displace communities, erode cultural heritage, and disrupt identities tied to land and traditions. The Solomon Islands emphasised that relocation and displacement due to climate change, while often discussed, is an incredibly complex process requiring clear legal pathways and international assistance. Its counsel rejected any arguments on the exclusive application of climate change treaties and strongly urged the Court to consider all relevant legal obligations under international law, including international environmental law, human rights law, and refugee law, in its analysis of State obligations. It also supported the dynamic application of CBDR-RC, emphasising the disproportionate burden on vulnerable nations with negligible emissions.

The Solomon Islands called for the international protection of people displaced by climate change under international refugee law, including the 1951 Refugee Convention, and invited the Court to consider broad grounds for determining refugee status such as the Convention Governing the Specific Aspects of Refugee Problems in Africa and the Cartagena Declaration. It also stressed the importance of mitigation and adaptation measures to minimise displacement. On the question of State responsibility, the Solomon Islands submitted that when States fail to discharge their mitigation and adaptation obligations, and the adverse effects of climate change lead to displacement, migration, and relocation, they will be internationally responsible for reparations in the form of restitution and/or compensation. Under this framework, States must provide technical and financial support to developing States facing both internal and cross-border displacement, migration, and relocation caused by climate change.

*The Solomon Islands presented a compelling legal argument, emphasising the integration of international environmental, human rights, and refugee law to address the complexities of climate-induced human mobility. Invoking the principle of common but differentiated responsibilities and respective capabilities and sharing the lived impacts of climate change in its communities, the Solomon Islands made a call for legal clarity on State responsibility for failing to meet mitigation and adaptation obligations that result in displacement. By urging the Court to extend refugee protection to people displaced by climate impacts across borders, the Solomon Islands advanced a bold human rights argument in benefit of more than 1 billion people to be displaced by 2050 per the IPCC.*

## **India**

India opened the session by characterising climate change as perhaps the most complex challenge in all of history with linkages to practically all our aspects of life on Earth, underscoring several dimensions to this challenge such as historical responsibility, unjust enrichment through over exploitation of natural resources, intergenerational equity, fairness, and justice. Its counsel sharply called out the hypocrisy of the developed world, which historically has contributed the

most and is best equipped with the technological and economic means to address this challenge. Yet, they continue using up the shrinking carbon space while pushing for more constraints on less developed countries struggling to bring millions of people out of extreme poverty. India's intervention focused on the centrality of the climate regime as the applicable law in relation to climate change, strongly foregrounding equity.

While India's legal counsel referenced the duty to prevent transboundary harm under international law, he also reinforced the centrality of the UNFCCC and its instruments, the Kyoto Protocol and the Paris Agreement, in defining the obligations of States in relation to climate change, urging the Court to avoid devising new obligations beyond existing climate treaties. Within the realm of the climate regime, India's counsel reinforced the importance of the principles of CBDR-RC and equity, arguing for the need for equitable access to the global carbon budget. Moreover, India pointed to climate finance as a main, critical enabler for developing countries to take effective climate action. Their counsel expressed disappointment with the finance outcome at the most recent climate negotiations and asserted the importance of grants-based finance. India emphasised that any fair or meaningful assessment of State obligations cannot be conducted without assessing the climate finance support provided. In terms of legal consequences for climate harm, India indicated that the law of State responsibility was the proper framework to consider. Given potential attribution issues in the context of climate change, India proposed that it may be necessary to look at attribution in a different way—considering the aggregate national contribution of States to the problem and matching that with the quantified commitments different States have undertaken in international law, for example, under the Kyoto Protocol. To close, India noted how reparation and compensation remains an important demand of a large number of developing countries, especially Small Island States, and highlighted its own expectation that the developed countries should contribute a major amount to the Loss and Damage Fund now established under the UNFCCC.

*India in its submission today made clear that the primary responsibility for addressing the climate crisis lies with developed countries. Its counsel sharply highlighted how developed countries have disproportionately appropriated the global commons in the form of the total carbon budget, linking this with the larger issue of sustainable development firmly embedded in India's constitutional jurisprudence. The responsibility of the world's largest cumulative emitters is undeniable, but, as India itself has recognized, there are common responsibilities of all States. Given India's significant current emissions, its heavy focus on historical emitters appears self-serving in the broader climate context. In the words of the climate advisory opinion of the International Tribunal for the Law of the Sea, "it is not only for developed States to take action, even if they should 'continue taking the lead'. All States must make mitigation efforts." While equitable approaches to climate mitigation are a must, continued growth focused, fossil fuelled development is also not the answer as it exacerbates climate change which continues to impact development pathways. While India expressed an innovative approach to reparations and compensation, its constricted views on the scope of reparations seem to be a missed opportunity to close the current accountability gap in relation to redress for climate harm.*



Iran positioned itself along with others that have argued that the only relevant climate obligations are found in the climate treaty regime. To that end, its counsel reiterated Iran's stance before the International Tribunal on the Law of the Sea (ITLOS), arguing again that the questions posed to the Court should have been limited to treaty commitments only. In its interpretation of the

obligations that exist under the climate treaties, Iran highlighted the principles of CBDR-RC, equity, and international cooperation as foundational to the international climate change regime, underlining the differentiated responsibilities of developed and developing States and repeatedly framing cooperation as the only practical solution to climate change. Finally, Iran denounced the use of unilateral coercive measures and carbon border adjustment mechanisms as unlawful.

Highlighting the greater responsibility of developed States for the accumulation of greenhouse gas emissions over the past century and the different financial and technological capacities and capabilities of States, Iran emphasised the predominance of the CBDR-RC principle as the cornerstone of the climate treaty regime. Accordingly, the type, stringency, and effectiveness of climate mitigation measures that States ought to implement vary between States based on their level of economic development and historic emissions. Furthermore, Iran highlighted the principle of equity as critical in interpreting States' obligations, acknowledging the lesser historical contributions of developing countries to climate change and their limited capabilities to respond. Moreover, its counsel argued that cooperation is an essential principle underlying other commitments and obligations under the climate treaty regime and that it constitutes the most viable response to the questions posed to the Court. In light of the principles of CBDR-RC and cooperation, developed States ought to provide financial support, technology transfer, and capacity building to developing States.

*Iran's submission placed important highlights on the principle of equity, including a reference to intergenerational equity, as well as the relevance of CBDR-RC. Nevertheless, overall the submission was clearly aimed at limiting climate obligations and cannot be considered to be advanced arguments in favour of climate justice. The suggestion that obligations are limited to only the climate treaties and the implication that only developed States have climate obligations are, as demonstrated by what many other States already presented, not grounded in long-established international law on the prevention of environmental harm and State responsibility. Moreover, the extreme emphasis on cooperation as a "the only viable" response to the question is an outrageous argument presented by a State that seems to both want to point the finger at historical polluters and, at the same time, make sure that they themselves will completely escape any responsibility.*

## Indonesia

Indonesia's oral submission limited climate obligations to the provisions of the Paris Agreement and the principles of cooperation and CBDR-RC. It emphasised the obligation of States to take major efforts to combat climate change through their NDCs. While Indonesia acknowledged the growing tendency of international bodies to link human rights law with climate issues, it argued that there are no particular obligations under human rights law for States to ensure the protection of the climate system. In addition, Indonesia's legal counsel emphasised the obligation of States to cooperate under the CBDR-RC principle, asserting that developed countries must take the lead in providing climate finance, technology transfer, and capacity-building support.

Indonesia firmly maintained that the Paris Agreement is the primary instrument for protecting the climate system, and focused its oral submission on the interpretation of its provisions. For example, it highlighted Article 2, which sets temperature targets, and Article 4, which requires countries to prepare NDCs that reflect their highest ambition to achieve those targets. In addition, Indonesia argued that there is no international or domestic recognition of environmental or climate-related violations as human rights violations. It cited the absence of a specific treat addressing the issue and noted that Indonesia's environmental cases had not established such a



link either. If the Court denied its argument, Indonesia stressed that such human rights obligations would extend beyond a State's territory.

*Indonesia has relied on the principles of CBDR-RC and cooperation outlined in the Rio Declaration, which predate the current climate regime, to interpret what it considers to be the only applicable climate rules. While this approach broadens the interpretation of these principles, it simultaneously limits the scope of applicable law to obligations constrained by the Paris Agreement. This position reflects a significant inconsistency: Indonesia recognises the right to a healthy environment in its Constitution, but excludes human rights obligations from its approach to climate-related issues. By separating human rights from climate obligations, Indonesia seeks to undermine the broader framework of international law that increasingly recognises the intersection of climate change and human rights. This restrictive interpretation risks limiting the legal tools available to fully address climate challenges.*

**Important Notice:** These Daily Briefings are aimed at providing an early summary of States' oral submissions to the International Court of Justice, providing critical elements of context to better understand the significance of key arguments made to the judges. These briefings are not meant as a legal product and do not provide a comprehensive summary of the arguments made by each State or Intergovernmental Organization appearing before the Court. Please refer to the [video recordings](#) and to the [transcripts](#) of the oral submissions for a full rendition of each of these submissions. The Earth Negotiations Bulletin also offers daily reports from these oral hearings which can be accessed [here](#).

**The lead editors** of today's Daily Briefing are: **Aditi Shetye, Joie Chowdhury, José Daniel Rodríguez Orúe, and Sébastien Duyck.**

The **contributors for today's** Daily Briefing are: **Danilo Garrido, Erika Lennon, Louise Fournier, Mariana Campos Vega, Noemi Zenk-Agyei, Prajwol Bickram Rana, Quint van Velthoven, Rossella Recupero, Theresa Amor-Jürgenssen, and Yasmin Bijvank.**

Our deepest gratitude to all those who helped with **taking notes** during the hearings: **Ambre Zwetyenga, Amy Kraitchman, Claire Seelinger Devey, Jui Dharwadkar, Juliette Dessagne, Moumita Das Gupta, and Zainab Khan Roza.**