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Evaluating the Advisory Opinion of the International Court of Justice on Climate Change: Foundations and Implementation Challenges of Climate Justice in Developing States

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Article

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Abstract

This article critically analyzes the Advisory Opinion of the International Court of Justice (ICJ) issued from 23 July 2025 on climate change as a turning point in both international environmental law and the development of the doctrine of climate justice. It examines the legal and normative foundations of the reasoning of the Court - especially the principle of common but differentiated responsibilities (CBDR) relevant to the United Nations Framework Convention on Climate Change (UNFCCC) and restated in the Paris Agreement (UNFCCC, 1992; Paris Agreement, 2015). It also explores how the Opinion has incorporated the human rights law, such as the right to life, health, and a clean environment, based on instruments like the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). In the article, the strong points of the Opinion are the expression of climate obligations in the manner of binding legal obligations to which the state is liable under customary international law (ICJ, 2025; Voigt, 2022). Nevertheless, it also determines long-standing obstacles to implementation, such as the lack of binding power of the Opinion, the lack of effective enforcement measures, and the lack of social and intergenerational equity. Furthermore, the study examines avenues of operationalizing the principles of the Opinion both on the domestic and international levels, such as the revision of national laws, the increase in judicial and institutional capacity, the empowerment of civil society, and the implementation of digital surveillance technology to trace environmental damage. Finally, the article recommends that the Opinion of the ICJ is based on a moral and legal pillar. This can be used to further comprehensive climate justice in developing countries like Jordan. But its translation into practice needs strong political determination, the will of the legislature, and a systematic governance approach that would protect the rights of the environment and the climate of future and present generations.

1 Introduction

The Advisory Opinion of the International Court of Justice (ICJ) released on July 23rd of 2025, on the Obligations of States in Respect of Climate Change, is an important moment for the development of international environmental and human rights law (ICJ, 2025). The Opinion was issued pursuant to the United Nations General Assembly Resolution A/RES/77/276 (2023), and represents a never-before-seen mix of state responsibility, environmental protection, and climate justice—topics which have developed, for the most part, independently of each other, until now (Voigt, 2022). While it does not have the binding effect of a decision by the Court following a contested hearing, its normative effect exists in its ability to reshape expectations of the lawful conduct of states and recast the moral and legal conversation of climate governance. This case is a complete and comprehensive examination of the States' responsibility not just to one another, but also to humanity and future generations (Bodansky, 2020).

The Opinion's impact goes beyond legal doctrine. Its urgency mirrors the climate crisis itself, rising temperatures, biodiversity loss, and transboundary ecosystem harm are straining legal institutions worldwide. As a result, the ICJ's actions carry both symbolic and practical weight, giving Global South states a new normative framework to argue for fair distribution of damages and historical accountability

(Peel & Lin, 2019). Despite contributing little to current emissions, developing countries bear a disproportionate share of climate change's social, economic, and environmental costs. The Opinion addresses this imbalance by reaffirming CBDR from the Paris Agreement, showing that climate governance can't be fair without accounting for each state's differing capacity, contribution, and vulnerability (Paris Agreement, 2015; Rajamani & Peel, 2021). The Court's eagerness to embed human rights such as life, health, and an adequate environment, also signals a broader shift in climate law, from technical regulation toward human protection (UNFCCC, 1992; UDHR; ICESCR).

This article critically analyzes the 2025 Advisory Opinion's legal foundations, normative innovations, and practical limits, arguing it marks a new stage of "judicial climate constitutionalism"(Bodansky, 2020; Voigt, 2022). The courts redefine core legal principles in light of ecological reality. It begins with the Opinion's doctrinal roots in the No Harm Principle, international cooperation, and CBDR, then turns to what these mean for state accountability, enforcement, and domestic implementation. Methodologically, it combines textual analysis of the ICJ's reasoning with comparisons to earlier jurisprudence. So, The Nuclear Weapons Opinion (ICJ, 1996) and the Chagos Archipelago Opinion (ICJ, 2019), to better understand how the Court's interpretive choices advance climate justice discourse in international law (Bodansky, 2020).

The ICJ's contribution also feeds into a broader policy and ethical debate. Climate justice, as a legal and philosophical concept, challenges traditional international law's positivist limits by demanding that environmental harm be addressed through redistributive and intergenerational responsibility, not just compensation (Gonzalez, 2015). The Opinion functions as both a legal and political text — a statement meant to shape future norms, treaty interpretation, and state practice. Its transformative potential hinges on whether states absorb its logic into domestic law, build judicial capacity, and engage civil society — especially in developing countries like Jordan, where environmental governance institutions are still young (Ministry of Environment, 2022). In this sense, the Opinion acts as both a driver of legal change and an ethical benchmark, positioning the Court as a moral compass in a shifting climate governance landscape (SEI, 2025).

I. Doctrinal Foundations of the ICJ Advisory Opinion

The Advisory Opinion of climate change by the ICJ reflects the coming of age of international environmental law as a normative pluralism based discipline. The Court relies on a variety of legal sources in its analysis: treaty duty under the UNFCCC and the Paris Agreement, customary principles identified by a stable state practice, and general principles of law that form the basis of the international legal order (Voigt, 2022). The central feature of the Opinion is the restatement of the No Harm Principle, which is one of the fundamental principles of environmental responsibility by which the states ensure that the actions on their territory or under their control do not harm the environment of other countries or the areas beyond the boundaries of the jurisdiction of nations. Canada, 1938–1941). This principle, initially declared in the Trail Smelier Arbitration, was subsequently declared in Principle 21 of the 1972 Stockholm Declaration and Principle 2 of the 1992 Rio Declaration (United Nations, 1972, 1992). The

wording of the ICJ's rationale is not intended to be simply a moral exhortation; instead it describes a series of due diligence obligations with the goal of preventing possible transboundary environmental harm through proactive and effective pre-emptive actions (ICJ, 2020, Paras 42–45).

Further to the Court's point about the principle of international cooperation, which is set forth in Principle 7 of the Rio Declaration, all states are obliged to cooperate internationally by all means necessary to implement the principles of international cooperation as they relate to global environmental issues (United Nations, 1992). The Court does not regard cooperation as a political choice but a juridical manifestation of solidarity, grounding collective action on a common sense of legal responsibility (ICJ, 2025). Moreover, the Opinion starts to change what was traditionally ignored as a soft law into a more organized system of shared yet differentiated obligations and, thus, closes the divide between environmental ethics and law enforcement (Rajamani and Peel, 2021).

Above all, the Court moved the Principle of Common but Differentiated Responsibilities (CBDR) to a leading interpretive criterion. Understanding the unequal historical part in global warming, the Court underlined that, to be just, various obligations that consider the differences in the level of economic development and the level of technological advancement should be offered (ICJ, 2025, paras. 66–70). This methodology appeals to Article 2(1) of the Paris Agreement and indicates an interpretative change to contextualized equity, a form of climate justice that does not follow formal equality but substantive fairness (Paris Agreement, 2015). The ICJ thus supported a view of international law that is sensitive to structural imbalances, which paralleled its argument with the emerging human-rights jurisprudence that implements environmental degradation as a breach of the right to life and human dignity (Peel & Lin, 2019).

The Opinion's intellectual creativity lies in merging environmental law with human rights law. It affirms that fundamental human rights can't be enjoyed without a protected environment, and that states have an affirmative duty not to cause environmental harm that undermines those rights (Voigt, 2022). The Court extends the reasoning from its earlier Advisory Opinions to the planetary scale, since climate change touches collective human interests and future generations (ICJ, 1996, 2019). This holistic approach has drawn praise — the Stockholm Environment Institute calls it a long-overdue addition to international law (SEI, 2025) — though the Court itself cautions that international law alone is limited and needs political will, social change, and legal reform to matter (ICJ, 2025, separate opinion of Judge X).

The Court's finding of diverging interpretations between industrialized and developing states isn't just about differing legal terminology — it reflects the broader political stakes of the climate crisis. Major emitters like the US and China treat climate agreements as a "special regime" (lex specialis), confining obligations strictly to treaty text and blocking broader international law, like the ARSIWA framework on state responsibility, from applying. They often pair this with the claim that the Paris Agreement is a "later rule" (lex posterior) under Article 30 of the Vienna Convention. This reading fits the Paris Agreement's deliberately non-binding, voluntary structure — designed to keep major emitters from opting out, as happened with Kyoto. As a result, how Article 18 is interpreted shapes both how accountable states are

held for protecting the climate system and how far the Court's reading of the Paris Agreement can drive collective global action (Atlam, 2026, pp. 2768–2769).

1.2. Inclusion of Human Rights in the Lawful Framework of the Advisory Opinion.

One of the most conceptually innovative aspects of the ICJ's 2025 Advisory Opinion is its explicit incorporation of human rights norms into international environmental law (ICJ, 2025). The Court breaks from treating climate change as merely a state policy issue and instead frames it as a legal and ethical duty rooted in human dignity. By confirming that states' climate responsibilities rest on substantive and procedural human rights obligations — not just technical or economic measures — the ICJ turns the climate question into one of justice and responsibility under international law (Voigt, 2022).

Central to this shift is the Court's recognition of the right to life and to a clean, healthy, sustainable environment as basic legal rights, building on soft-law instruments like UNGA Resolution 76/300 (2022), which made this a universal human right. The Court affirms that environmental degradation — especially from climate inaction — violates these rights, elevating environmental obligations from policy preference to binding international commitment, in line with evolving views of state responsibility (Boyd, 2017). The Opinion also emphasizes procedural rights, recognizing that sound environmental governance requires public participation, access to information, and climate education (Boyd, 2017; UNDP, UNEP & OHCHR, 2023) — echoing the Aarhus Convention and related human rights jurisprudence. These procedural protections turn affected people from passive victims into rights-holders with legal standing, putting humans, not states, at the center of climate law (Rajamani & Peel, 2021).

This shift towards a human boundaries-connected focus complements a large and growing cadre of global advocacy and case law linking environmental safeguards with guarantees of human rights. The Special Rapporteur on Human Rights and the Environment, the UNDP, and UNEP, as well as findings from the Office of the High Commissioner on Human Rights (OHCHR), consistently assert that the right to a healthy and sustainable environment is necessary to realize all rights (UNDP in Boy, 2023). In addition, more recent comparative constitutional developments and decisions from regional courts are increasingly conceptualizing environmental quality as a precondition for the enjoyment of civil and political rights as well as economic and social rights (Boyd, 2017). Within all of this, the ICJ’s (International Court of Justice) Advisory Opinion is a legitimating moment for the evolution of norms surrounding the “right to climate”— a norm in evolution, but a potential legal obligation under international law, capable of becoming a legal obligation binding in a treaty.

The court’s reasoning also has immediate implications for the protection of environmental human rights defenders, who are on the front lines of the climate struggle. In recent years, activists (youth movements, women, Indigenous peoples, and so on) have faced increased violence, criminalization, and harassment. According to Global Witness, from 2012 to 2023, over 2,100 environmental defenders were killed defending land and natural resources (Global Witness, 2023). Although the ICJ Opinion does not

reference environmental defenders, by recognizing environmental rights and environmental procedural rights, the ICJ Opinion implicitly recognizes environmental defenders as defenders of climate justice. In this regard, it is comparable to the Inter-American Court of Human Rights, which, in its 2017 Advisory Opinion OC-23/17, recognized the protection of environmental defenders as part of a human rights obligation (Inter-American Court of Human Rights, 2017).

As a consequence, international institutions, including OHCHR, Human Rights Watch, Amnesty International, and Global Witness, and others, have touted the Advisory Opinion as an important legal development that strengthens the protection for advocates of environmental and climate rights (OHCHR, 2023; Global Witness, 2023). In short, the jurisprudential synthesis of environmental (and human rights obligations) by the Court represents a qualitative improvement in international law; it extends the concept of state responsibility, it empowers individuals and civil society, and it provides a normative basis for an eventual regime of environmental and climate rights (Boyd, 2017; Rajamani & Peel, 2021). What the Opinion does fundamentally is put humanity back squarely in the center of environmental law, and that securing the environment is not separate from securing human dignity and life itself.

1.3 The Limits of Legal Binding Force and Implications of the Advisory Opinion

The International Court of Justice's (ICJ) (Statute of the International Court of Justice, 1945) advisory opinion can be defined as both a statutory provision and non-statutory obligation to which all States are subject but cannot be enforced nor impose value and have a direct effect on the actions and obligations of individuals. Although they represent an interpretation of the provisions of a Convention or Agreement, an advisory opinion is not legally binding and does not have any coercive power. As Dinstein has stated (1998), however, advisory opinions may have a significant persuasive and normative effect, especially in developing existing law, where positive law does not yet exist (climate and environmental governance).

That advisory opinions are non-binding does not mean that they do not have a practical effect. In fact, non-binding instruments have considerable influence in shaping State behavior and the interpretation of treaties and, as Dinstein (1998) has noted, may acquire a "quasi-binding" character in light of the consistent practice of States in reliance on such non-binding instruments. In that regard, the Advisory opinion on climate change offers an interpretive advice to the courts, policymakers, and negotiators which promotes the progressive alignment of legal norms across jurisdictions. It can be used as an authoritative source by domestic courts' ruling on climate cases, and the international organizations establishing climate governance systems. Additionally, its normative content may be used to enhance and support the formulation of new treaties or changes in the existing treaties under the UNFCCC and associated regimes (Voigt, 2022; Rajamani and Peel, 2021).

In the past, the advisory opinion's precedential effect has been profound. The 1996 Advisory Opinion of the Court on the Legality of the Threat or Use of Nuclear Weapons (advisory) had a far-reaching impact on the history of international humanitarian and environmental law (ICJ, 1996). It also expressed the principles upon which subsequent treaty bargains and state practice were based, insofar as concerns

proportionality and environmental protection in armed conflict (Dinstein, 1998). Similarly, the 2025 climate Opinion can also serve in the same manner: it is a formally consultative operation, but will create customary norms by means of recurrent invocation, state approval, and the gradual hardening of practice. The principles in the Opinion might develop over time into binding customary international law, which would create a lex climatic on the level of the lex specialist that developed in the context of nuclear and humanitarian law (Rajamani and Peel, 2021).

The importance of the Opinion, therefore, is not so much in its enforceability as in its ability to create expectations and trends of state behavior. Possibly through the accretion of state practice and other institutional sources, its principles can then become a body of customary climate commitments, which can in turn be documented in multilateral instruments or formal resolutions of the United Nations. The dynamic displays how soft-law pronouncements can become hardened into binding law with a steady stream of political and legal support (Bodansky, 2020; Voigt, 2022). It extends beyond the legal imagination of international society in asserting that justice to the planet cannot exist without justice to people. The interrelationship of human rights, the duty of care to our environment, and the responsibility of states indicates a normative articulation toward a legally binding climate commitment and sets out an important foundation to an eventual customary international climate strategy that will respond to one of the biggest challenges of the twenty-first century (ICJ, 2025; Rajamani and Peel, 2021).

2. A Critical Reading of the ICJ Advisory Opinion: Between Strengths and Limitations

In its advisory opinion on climate change (ICJ, 2025) the International Court of Justice has provided both the promise and paradox of contemporary international environmental law. The promise comes from showing the current growth of obligations related to climate change that connect environmental protection, human rights and states' responsibilities. The paradox arises because the advisory opinion illustrates some fundamental systemic problems within the international legal order that may limit the effectiveness of such obligations in practice.

2.1 Strengths of the Advisory Opinion

It is worth noting that the Advisory Opinion delivers real breakthroughs for international climate litigation. Its biggest strength is setting a judicial precedent — the first time the Court systematically defined states' climate obligations (ICJ, 2025). This turns climate change from a political issue debated under the UNFCCC into a matter of legal responsibility, giving national and regional courts a standard for reviewing government climate policy, especially in developing jurisdictions with weaker environmental courts (Voigt & Ferreira, 2016).

Second, the Opinion turns climate commitments into legal duties rather than voluntary pledges. Drawing on the Paris Agreement and state responsibility law, the Court says failing to cut emissions can trigger liability (Bodansky, 2017; Sands & Peel, 2018). This reclassification lets litigants treat state inaction as a

breach of international law, echoing how vague duties in other fields — like transboundary harm and humanitarian law — eventually hardened into precise legal standards.

Third, the Opinion folds human rights — life, health, a clean environment — into climate governance (UN Human Rights Council, 2019–2023; Boyd, 2017), reinforcing the idea of a "right to climate" as a bridge between environmental integrity and human survival. This pushes global legal discourse toward treating environmental harm as a direct threat to human dignity, not a separate technical issue (Boyd, 2017).

Fourth, it gives civil society and environmental movements an ethical and legal basis for litigation. Defenders, NGOs, and affected communities can invoke its logic (Setzer & Byrnes, 2020), much as Urgenda v. Netherlands and Notre Affaire à Tous v. France show courts leaning on international standards to hold states and companies accountable. In doing so, it gives transnational activism a shared legal language of rights, duties, and accountability.

Finally, scholars and institutions read the Opinion as a genuine shift in climate governance. The Stockholm Environment Institute (2023) sees it as boosting vulnerable states' legal leverage; Columbia's Sabin Center (2023) frames it as turning an aspirational right to a healthy environment into an enforceable one; and the IISD (2023) calls it a turning point for how climate duties and accountability are distributed.

2.2 Weaknesses and Constraints of the Advisory Opinion

Despite its progressive content, the Advisory Opinion has real conceptual and normative weaknesses that limit its transformative potential. Chief among them: it isn't legally binding. States face no obligation to comply and no liability for ignoring it under Article 65 of the ICJ Statute (1945). This keeps the Opinion in the realm of soft law, giving states wide latitude to adopt or disregard it as they please — which blunts its actual impact on state behavior (Mayer, 2021).

Second, there is no time-based or institutional compliance monitoring mechanism that is set in the Opinion. Contrary to some regimes established through treaties, where periodic reporting and/or peer review and/or dedicated compliance committees are required, the Court's reasoning lacks follow-up procedures or guidelines to measure progress (Mayer, 2021). Lack of reporting requirements or time constraints render the implementation process highly reliant on the political goodwill of the individual governments, hence creating uncertainty in sustainability and predictability of consistent climate accountability.

Thirdly, the Opinion is still conceptually ambiguous with respect to the definition of climate harm. It does not specify any evidentiary requirements or standards of causation to ascribe liability to transboundary environmental harm, nor does it specify how a court should deal with scientific uncertainty and inscrutability of emissions (Carlarne, 2016). Such ambiguity makes the work of national and international judges more complicated, as they are required to evaluate responsibility under complex factual situations with the involvement of many actors and causal links. In the absence of a better

doctrinal framework, any claims based on climate issues will be sabotaged by inconsistent judicial decisions, differences in standards of proof, or a deficiency in evidence.

Fourth, although the Court reaffirms the principle of Common but Differentiated Responsibilities (CBDR), it does not indicate varied responsibility measures by states. It falls short of stating how each state will be measured to contribute to climate change or its own mitigation and adaptation ability (Rajamani, 2010). Such omission poses a risk of maintaining the inequalities between industrialized and developing states and, consequently, watering down the distributive aspect of justice that is central to the overall idea of climate justice. This is, the normative framework is never rejected; however, the tools of achieving it into specific obligations are not developed.

Fifth, the Opinion does not answer the question of whether an international climate obligation can be in conflict with sovereign economic prerogatives of states. It does not provide particular suggestions of how to address climate commitments and domestic activities to increase the extraction of fossil fuel, subsidize activities with high carbon intensity, or adopt growth policies that rely on the use of hydrocarbons extensively (Bodansky, 2017). Thus, the balance between sovereign developmental entitlement and planetary claims that is one of the most disputed aspects of modern environmental governance has not been achieved yet. This omission may be a premeditated approach to maintaining the agreement, but it also provides many questions to be answered by courts and policymakers.

The Opinion is however a high-value normative standard. It helps in gradualizing codifying accountability of climate by creating shared anticipations of legal behavior. It also provides interpretive advice on how to regulate the conduct of non-state actors, including multinational corporations, the activities of which are starting to manifest themselves as the major cause of global emissions (Mayer, 2021). In this regard, the Opinion can be used to support domestic law reform, as states have a point of reference in using international standards to national law. According to Mayer (2021), the definition of legal and illegal climate behavior is an interpretive virtue, despite the lack of concrete enforcement tools. At the same time, its shortcomings indicate the pressing necessity of better institutional design such as the periodical review system, compliance procedures, and more explicit standards of responsibility. It is only in such developments that the dream of global climate justice as expressed in the Advisory Opinion can work and be operational.

3. Conceptual Gaps and Missing Contexts in Advisory Opinion: Social Justice and Intergenerational Justice

While the ICJ's 2025 Advisory Opinion on climate change has drawn attention from the climate community, it only scratches the surface of key ethical and legal issues central to today's climate justice debates — namely social justice and intergenerational justice. The Court's silence on these issues points to one of two possibilities: either it deliberately adopted a narrow, legally neutral approach to sidestep politically sensitive territory, or, more troublingly, it failed to grasp the full complexity of the climate crisis due to a lack of experience with these issues. Climate change isn't just a physical or environmental

problem — it's a web of social and economic inequities with real consequences for people's long-term survival and development worldwide (Gonzalez, 2015). By not treating social and intertemporal justice as distinct legal principles, the Opinion misses the structural and temporal harms caused by these injustices, harms that make climate justice a unique category of justice in its own right.

3.1 Social Justice: A Deliberate Silence?

Social justice is one of the pillars of sustainable development because it requires a fair allocation of the resources, risks, and opportunities of various social groups (Schlosberg, 2013). Social justice also addresses the context of climate change, specifically in terms of the structural disparities that influence various exposures to climate effects and unequal access to adaptation resources (Gonzalez, 2015). The Opinion of ICJ fugitively admits that some communities are disproportionately impacted by climate effects but makes little or nothing in the way of incurring such effects into an enforceable legal commitment based on a principle of social justice (ICJ, 2025). Rather than state social justice as a distinct norm of law, the Court seems to envelop distributive issues in wider constructs of equality and non-discrimination, thus watershed their particular relevance to climate.

This exclusion can be seen, at least partially, as an attempt by the Court to stay within what it views as the limits of its legal jurisdiction, and to maintain a technically-constructed opinion that is based on principles which have a high textual or traditional grounding. In declining to directly address social justice as a separate legal concept, the Court could also have been trying to reduce the amount of political blowback and maintain a higher level of interstate accommodation, particularly between developed and developing nations. Nevertheless, the normative cost of such a strategy is high. Environmental justice scholars have further noted that the populations that have been disadvantaged by the prevailing systems in any country, such as Indigenous communities, rural and urban populations, women, children, and the less affluent, were the most likely to experience the greatest impact of environmental degradation, yet lacked the power to influence the policies and decisions (Schlosberg, 2013). The fact that the Court never directly affirms that social justice is an operative legal standard, and undermines the Opinion in its capacity of triggering transformative social change in the allocation of climate burdens and benefits (Gonzalez, 2015).

This inability of the author to clearly recognize this makes the Opinion less responsive to the structural nature of climate inequality. In the absence of an explicit normative expression of social justice, states have no particular duty to develop climate responses to cope with existing trends of marginalization. Such overlooking is likely to continue unequal burden-sharing, supporting the socio-economic marginalization of the most vulnerable to floods, droughts, displacement, and loss of livelihoods (Gonzalez, 2015; Schlosberg, 2013).

3.2 Intergenerational Justice: Ethical Duty Without a Legal Frame

It is long accepted that intergenerational justice is a fundamental value of environmental responsibility, in which the current generations should be considered as custodians of the available natural resources on earth and to prevent violation of the environmental, social, and economic interests of future generations even before birth (Weiss, 1992). It has been a key point of philosophical foundations on the justice between generations and the law on the time aspects of state liability. However, in the Advisory Opinion of the ICJ, intergenerational justice is not explicitly treated as an articulated and binding legal principle but is instead mentioned only implicitly in general terms, citing such aspects as future responsibility and the necessity to take preventive steps (ICJ, 2025). That treatment is implicit means that the intergenerational equity is brought nearer to a field of ethical exhortation rather than enforceable international law.

This omission has far-reaching consequences on litigation as well as legislation. When it comes to climate-related cases, a significant portion of the most severe damages will be realized in the medium-term or long-term, and they will impact the future population, who are not able to represent themselves. Strong appreciation of intergenerational justice would have given national courts and legislators a strong doctrinal foundation on how to adjudicate claims based on long-term climate risk. Rather, the lack of direct mention restrains the usefulness of the Opinion as a legal basis of youth-led or future-generation claims, which attempt to challenge the policies that would be inconsistent with long-term climate stability. This is quite different from the attitude taken by the German Federal Constitutional Court in Neubauer et al. v. Germany (2021), which found that inadequate ambitious mitigation strategies infringe upon the rights of the younger and future generation by unreasonably imposing mitigation burdens on them (Bundesverfassungsgericht, 2021).

Additionally, the advocates of the idea that fairness to future generations should be viewed as a structure limiting current policy decisions have been present in the works of authors like Edith Brown Weiss long before the concept of fairness was considered a moral ideal (Weiss, 1992). The Opinion presented by the ICJ denies legislatures a powerful normative anchor of long-term regulatory design, such as the establishment of carbon budgets, phasing off fossil fuels, and cross-temporal equity evaluations.

3.3 Legal and Political Implications of Omitting Social and Intergenerational Justice

The lack of explicit mention of social justice and intergenerational justice holds complicated political and legal repercussions. On one hand, a charitable reading indicates that the Court did not want to become too politicized and did not want to use the concepts that could be seen as too indeterminate or ideologically loaded by some states. The Court seems to have genuinely sought the consensus of the Opinion, particularly in the climate change circumstance, given the proportional salience of effective governance, which would necessitate collective mobilization and cooperation - this is particularly true when emphasis is placed on principles with identifiable doctrinal foundations, such as No Harm, international cooperation, and CBDR (Rajamani, 2021). At that, such restriction of the Court may be

viewed as a form of judicial pragmatism, which was implemented to ensure the greatest possible consensus as opposed to being pushy in trying to push the limits of legal innovation.

Conversely, this minimalist conservatism has a certain price. The Court arguably missed a historic chance by refusing to get into the meat of social and intergenerational justice, a lapse that may have given rise to the creation of a truly foundational climate justice charter. The Opinion could have been a constitutional-type document uniting not just environmental protection and human rights, but also the social and time aspect of justice that are at the core of the issue of climate (Gonzalez, 2015). This is because its inability to do so threatens to restrain its transformative ability, particularly in situations where the domestic courts and legislatures seek international jurisprudence to provide a normative stance that would help them in embedding equity concerns in policy relating to climate (Schlosberg, 2013).

The overall impact is a biased humidification of climate justice: the Court promotes the humidification of environmental and human-rights aspects of climate change, but does not do much to theories and enforce the social and temporal axes of justice. Such a biased solution can undermine the attempt to work on the structural inequalities on a deeper level, thus limiting the possibilities of the Opinion to become a comprehensive means of reshaping the interactions between climate governance, human development, and social protection (Schlosberg, 2013; Gonzalez, 2015). That is, the Advisory Opinion helps the law progress, but not as far as the discourse of climate justice has already made.

3.4 Legal Selectivity: Between Judicial Realism and Political Calculation

Upon closely examining the Advisory Opinion, it appears that the ICJ used intentional selectivity in deciding which legal concepts to emphasize. While notably silent on other key ideas of the current climate justice discourse, such as the polluter pays principle, the precautionary principle, climate justice as an explicit legal notion, and sustainable development as a guiding norm, the Court primarily relied on principles with obvious customary or treaty-based foundations, such as the No Harm principle, international cooperation, and CBDR (Sands & Peel, 2018). Advocates and domestic courts regularly use these latter concepts, which play a significant role in academic literature and international negotiations (Bodansky, 2016).

It is hard to believe that the omission of specific reference to some of these ideas was an oversight. On the contrary, it could be interpreted as an attempt to avoid an outright confrontation with the powerful emitting states, which would see any of these principles as an invitation to make massive compensation claims and loss and damage liabilities (International Law Commission, 2018). The Court thus enhanced the Opinion’s formal legal sobriety and increased its prospects of diplomatic endorsement by confining itself to relatively uncontroversial, and hence more widely accepted ideas. Judicial Realism has two sides to it: on one hand, it maximizes the Opinion's legitimacy as a cautious, legally orthodox document that is likely to gain widespread support; on the other hand, it minimizes the Opinion's subversive potential, especially in relation to reparations and forms of accountability that are strong enough to

respond to the climate threats posed by states and communities at risk of climate change (Rajamani, 2021; Schlosberg, 2013).

However, by incorporating both social and intergenerational justice into its legal reasoning, the Court has effectively paid a price for this trade-off in terms of reducing the likelihood of transformative outcomes and presenting objective evidence of limits to the structural adjudication of international disputes under conditions of total worldwide fracture (5). Thus, while the Opinion has normative value, it does not fully conform to the broad understanding of climate justice that is being advanced through many of today's campaigns and scholarship (Gonzalez, 2015). This means that the opinion is normatively significant but not entirely compatible with the holistic understanding of climate justice (Schlosberg, 2013).

4. The Impact of the Advisory Opinion on Strengthening the Legal, Negotiating, and Litigation Position of Developing States

The 2025 Advisory Opinion of the ICJ is a significant doctrinal step in the development of international climate law. Besides, it has specific importance for developing countries, which have been unable to influence the development of climate negotiations and organize their own prerogatives into a legal framework. The Court has officially established for the first time that states possess specific legal obligations to protect the global climate system from dangerous greenhouse-gas emissions based on the matrix of the Paris Agreement, customary international law, and international human rights law (ICJ, 2025; and Voigt & Ferreira, 2016). This development is a qualitative shift in international legal thinking: actions on climate are now framed as a binding legal obligation rather than an exercise of discretion based on sovereignty and the national interest, around which states are legally bound to demonstrate "the highest possible level of ambition in their nationally determined contributions" (NDCs) consistent with limiting original warming to 1.5°C (Voigt & Ferreira, 2016).

Therefore, the Court extends the legal basis for litigation against government programs that directly promote or subsidize fossil fuel extraction and use by operationalizing the 1.5°C limit as the normative basis of the Paris framework. Therefore, the Opinion provides a wider legal foundation for the challenge by national courts, affected communities and civil society to policies which do not align with an objective of a global temperature limit (Setzer & Byrnes 2020). Also, the reading provides an idea of theological support that relates to a state's obligation to continually increase their ambitions due to evolving scientific knowledge and technical abilities, rather than simply ensuring they are not backsliding (Bodansky 2016). The idea on progressive realization and non-regression regarding environmental protection found in the reading is also in line with broader trends in international environmental law.

4.1 International and Negotiating Effects: A Strategic Instrument for Developing States

The Advisory Opinion provides a legal guide to help developing countries such as Jordan in multilateral conferences and discussions regarding climate change. It provides these states with strong legal grounds to support their long-term premises to receive sufficient funding and technological support, especially with the help of the Green Climate Fund (GCF), that is the main contributor to the financial

support of adaptation and mitigation projects as the part of the UNFCCC (UNFCCC, 2021). This Opinion confirms the treatment of financial transfers, capacity-building, and technology transfer as a state obligation, but not a state charity, which supports the principle of equity and Common But Differentiated Responsibilities (CBDR) and repeats the message that high-emitting states have legal responsibilities to ensure dangerous climate change is prevented (Rajamani, 2021). Moreover, the Opinion also supports the formulation of negotiating coalitions among the states in the Global South. In the case of climate-vulnerable governments, especially lower-income and small-island developing states (SIDS), it sets a normative standard of coordinating the stance in COPs, as well as other diplomatic activities (Gonzalez, 2015). The Opinion increases the bargaining capabilities of these states by incorporating calls to strengthen climate finance, adaptation support, and loss-and-damage mechanisms into a text of legal commitment, and raising the political price of refusing more ambitious and fairer deals to developed countries.

The Advisory Opinion is often viewed by scholars as the normative foundation on the global progress of climate justice. It allows developing countries to create a legal story that would connect their historical exclusion by the global economic system with their current excessively high climate impacts, even though the question of timeliness (Schlosberg, 2013). The Opinion argues that climate change susceptibility is not a random geographic event but a logical outcome of years of unfair production and consumption processes by industrialized economies (Gonzalez, 2015). This way, it empowers developing states with a vocabulary of responsibility and a rights-based system to seek more robust action and the ability to share the burden. Also, the Court emphasizes the necessity to approach legal, political, social, and scientific aspects of the issue as a single solution and admits that the field of international law might not be enough to resolve the climate crisis on its own (ICJ, 2025). Such acknowledgment can in its turn give hope and confidence to the developing countries, who can perceive the Advisory Opinion not as the final goal but as the driver of the more extensive and long-term change. In terms of the potential, it provides for support in the domestic legal context, to reform domestic laws or related laws, mobilizing public opinion, or forming ties with the capacities of universities, civil society, and policymakers. Weiss (1992) indicates strongly that the opinion can act as a type of international standard-setting mechanism.

5. Conclusion

The 2025 Advisory Opinion presented by the International Court of Justice is an important milestone in international climate law. Importantly, the Advisory Opinion establishes a normative framework that elevates states' responsibilities to protect the global climate system under treaties, customary international law, and human rights (ICJ, 2025; Voigt, 2022). While the Advisory Opinion does not create an enforcement mechanism that can legally bind states, unlike the other sources of customary international law, it nonetheless meaningfully shifts the legal conversation on climate change by identifying states' obligations and reaffirming important common but differentiated responsibilities (CBDR) and the historic agency of industrial states to their disproportionate contributions to greenhouse gas emissions (Rajamani, 2021). This article also argued that, while the Advisory Opinion is forward-

thinking and strikingly comprehensive, it did not reference social justice and intergenerational justice as binding entitlements. The absence of social justice and intergenerational justice as binding entitlements limits the Advisory Opinion's ability as a functional and responsive response to an array of structural inequalities—both within states and between states—that are embedded in various forms of contemporary climate injustice (Gonzalez, 2015; Schlosberg, 2013). It is true that the Advisory Opinion is limited in some respects, yet it serves as an important strategic tool for developing states. First, it gives rise to declaratory obligations under international law, which has enhanced the ability of developing states to seek funding and other resources, including seeking reparations from developed states in international climate negotiations.

The reasoning of the Court underscores that international law is necessary, but not sufficient to address the crises in our climate. The opinion suggests the best approaches will require consideration of the legal, political, social, and scientific aspects of justice to achieve transformative and just outcomes (Bodansky, 2016; Rajamani, 2021). It also serves as the anchor of jurisdiction and as a kind of moral compass: the text points out that the action of climate is not a mere act that is supported by legal obligation, but the tensile institutional change and the mobilization of civil society are needed in developing states like Jordan where the legislative and institutional structures are weak. In its essence, the Advisory Opinion represents the juridical idealization of climatic governance; it makes climate action no longer a policy option but a necessity, which strengthens it with the help of the international law and places it in the context of human rights. At the same time, the vagueness of the Advisory Opinion, the biasedness of the appeal to fundamental principles of justice, the lack of clear enforcement architecture are the graphic indicators of the current need to develop doctrines and design an institutional structure. This is necessary in case global climate justice as pledged in the Advisory Opinion is to be achieved.

5.1 Key Findings

1. A rise in international commitments and a legally-binding framework for climate action. The Advisory Opinion describes one way in which international law can provide states with binding legal duties to climate change, moving beyond political discourse (ICJ, 2025). This legal duty provides a vital baseline for strengthening international climate agreements going forward, particularly for developing countries that have historically had less power in negotiations and implementation (Voigt & Ferreira, 2016).

2. A reconceptualization of the historical responsibility of developed states. To clarify the respective legal and moral liability of developed states for their historical contribution to climate change, the Opinion establishes Common but Differentiated Responsibilities as a legitimate basis in law (Rajamani, 2010, 2021). In doing so, it provides new impetus for the contemplation of climate change compensation, finance, and loss and damage, all significant to developing state actors.

3. A social, political, and legal integration of climate governance. The Court calls for new rights-based, cross-sector and cross-communities governance regimes, while reiterating that international law is insufficient to resolve the climate crisis (Bodansky, 2016). This integrative approach provides the terrain to devise social and economic responses that are innovative, equitable, and climate responsive; as well

4. A new stage of assisting domestic courts and expanding climate litigation enables these domestic courts in developing countries of the global south to review the conduct of states and corporations in the climate justice context compared to international obligations (Setzer & Byrnes, 2020). This expands the climate litigation accountability avenues and potential accountability actors and climate litigation movement, which is proactive and constructive than what has been available before.

5. Lack of effective legislative and institutional frameworks undermining international obligations in practice. Many national experiences, including Jordan, demonstrate inadequate climate legislation, incoherent regional institutions, and limited technical and legal capacity (UNDP, UNEP, & OHCHR, 2023; World Bank, 2020).

5.2. Recommendations

In light of these findings, the article proposes the following recommendations directed towards developing countries, particularly Jordan, regarding the transformative agenda of the Advisory Opinion into concrete legal and policy practice:

Update and modernize national laws so they align with global climate obligations:Developing countries should include new legal concepts, including climate harm, climate liability, and just transition, into the legal framework modernization process (Mayer, 2021). This should include the establishment and strengthening of specialized environmental and climate courts or chambers. Clarity should also be recognized when it comes to climate-related harm as a basis for liability. Reforming the law, specifically in consideration of clarifying liability for climate harm, would enhance the coherence, enforceability, and clarity of national climate obligations and make it easier to apply the ICJ's opinion directly in national courts.

Strengthening legal and technical capacity for judges, lawyers, and public officials: Tailored capacity building programs could be developed for judges, adjudicators, lawyers, and other public officials to improve their understanding of the multi-layered legal and technical challenges of climate litigation (Bodansky, 2016).Such training would be particularly relevant to the use of the climate litigation Advisory Opinion and the administrative review. In collaboration with these legal dimensions, cross-disciplinary training (legal, environmental, and economic) would further enhance institutional capacity for the climate policy design and assessment to meet global climate obligations.

Strengthening and supporting civil society participation in climate litigation and governance: Civil society actors need access to the technical, financial, and informational resources and support intent on ‘legally strategic’ climate litigation and rights-based advocacy (Gonzalez, 2015; Setzer & Byrnes, 2020). Those who advocate and support climate action from the civil, human rights, and environmental perspectives will aid in achieving accountability, increasing the climate governance process transparency, and expanding the climate governance public participation.

Efficient regional and national coordinating systems: In the national and regional development of specialized institutional frameworks and cooperative working groups, developing nations to climate in climate-related actions, information sharing, and climate governance monitoring and enforcement will (UNFCCC, 2021). Legal and judicial regional networks will strengthen developing nations' climate international negotiations, standard of review harmonization, and climate litigation best practice sharing. Policy coherence in the execution of cross-sector national climate, energy, and social policy will be supported by inter-ministerial coordination committees.

Integration of technology and data-driven climate governance: With legal reform in climate governance being unlikely in the near future, the use of state-of-the-art technology, such as remote sensing, AI, and other advanced data analytic tools, will improve the monitoring of emissions and climate impacts and the enforcement of standards. The Global South should invest in this technology, with backing from the Global North, to gather credible evidence to support the litigation, policy review, and accountability to the public.

Strengthening political will and holistic, cross-sectoral approaches. The impact of any legal or institutional reform is predicated on the existence of political will. States should framework and invest in governance that will support cross-sectoral national plans that merge climate objectives with development planning, human rights, social equity, and the protection of the vulnerable. These cross-sectoral plans should also be of strategic national importance, include resources for budgetary planning, and be governed with transparency and public participation that integrates the private sector, research communities, and civil societies. The normative impact of the ICJ’s Advisory Opinion will need climate justice to be framed with these principles for the present and future generations.

Declarations

Ethical Approval:

This article does not contain any studies with human participants.

Author Contribution

ME is the only author and did all the research paper. it is a self concern and passion to be in this field. all details and analysis is written by the author. there is no other contributorsto this paper.Data Availability statement is highlighted with red color in the draft.

Data Availability

This study is a doctrinal legal analysis and did not generate or analyse any new empirical dataset. All materials examined in this article are publicly available. All data retrieved from published sources and

cited herein. No restricted, proprietary, or original datasets were used. Also, no additional supporting documentation beyond the publicly accessible sources cited in the manuscript exists.

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