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THE RIGHT TO HEALTH IN THE AGE OF CLIMATE ACCOUNTABILITY: THE ICJ ADVISORY OPINION AND ITS IMPLICATIONS FOR GLOBAL HEALTH

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On 23 July 2025, the International Court of Justice (ICJ) rendered, unanimously, a landmark Advisory Opinion on the Obligations of States in Respect of Climate Change. In doing so, it placed the right to health at the centre of the international legal response to the climate crisis: States' climate conduct is now assessable against human rights criteria, and climate inaction is no longer merely a political failure but may become a legal one with identifiable consequences. This policy brief explains what the Court decided and why it matters for global health actors. It sets out the obligations identified by the Court (Section 2), the legal consequences that flow from their breach (Section 3), and the practical implications for the World Health Organization (WHO) and the World Health Assembly (WHA), health law instruments, international institutions, and litigation (Section 4), before drawing conclusions on the accountability era the Opinion may inaugurate (Section 5).

1. THE ADVISORY OPINION: WHAT HAPPENED AND WHY IT MATTERS FOR HEALTH PROFESSIONALS

On 23 July 2025 the ICJ rendered its Advisory Opinion on Obligations of States in Respect of Climate Change, responding to the United Nations General Assembly (UNGA) resolution 77/276 of 29 March 2023 — championed by Vanuatu following a youth-led Pacific campaign and co-sponsored by 132 Member States. Rendered unanimously, the Opinion addresses two questions: what obligations States have under international law to protect the climate system; and what legal consequences arise when those obligations are breached.

The Opinion was welcomed by the General Assembly in resolution 80/263 (20 May 2026), which affirmed its importance as "an authoritative contribution to the clarification of existing international law" and called upon all States to comply with it. It is the most consequential multilateral clarification of climate law to date, and it comes at a moment when the ICJ's authority has been reinforced by two companion opinions on climate change and international law: the International Tribunal for the Law of the Sea Advisory Opinion of 21 May 2024 (obligations under the UN Convention on the Law of the Sea - UNCLOS), and the Inter-American Court of Human Rights (IACtHR) Advisory Opinion OC-32/25 adopted on 29 May 2025 and delivered on 3 July 2025 (Climate emergency

and human rights). The three opinions converge on a shared legal core: climate change causes real and attributable harm; States are subject to binding legal obligations — including treaty duties, a stringent duty of due diligence under customary law, the duty to cooperate continuously and in good faith, and human rights requirements — that extend beyond the Paris Agreement; and health — as a human right — is directly implicated.

For health professionals, the significance is threefold. First, the Opinion formally anchors the right to health within the legal architecture of climate change, making health a legal criterion — not merely a political or moral aspiration — against which States' climate conduct is assessed. Second, it confirms that the scientific authority of WHO and the Intergovernmental Panel on Climate Change (IPCC) is legally actionable: the Court explicitly relied on WHO's finding that climate change potentially poses "the greatest threat to global health in the 21st century" (para. 379) as a foundation for its legal conclusions. Third, the General Assembly's May 2026 endorsement creates immediate political momentum that health ministries and WHO can leverage.

2. STATE OBLIGATIONS

The Court identified obligations drawn from four sources of international law, all of which are directly relevant to health.

Firstly, under the **climate change treaties**, all parties to the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement bear binding obligations to adopt mitigation and adaptation measures, cooperate in good faith, and provide financial and technological support. For Paris Agreement parties, the obligations to prepare, communicate and maintain successive Nationally Determined Contributions (NDCs) are legally binding; each NDC must reflect the party's highest possible ambition and, taken together, NDCs must be capable of achieving the 1.5°C temperature goal.

Secondly, under **customary international law**, two obligations apply to all States, including non-parties to the Paris Agreement: the duty to prevent significant transboundary harm to the climate system (subject to a stringent due-diligence standard), and the duty to cooperate continuously and in good faith.

Thirdly, **treaty law**, including the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Convention on Biological Diversity, and the Convention to Combat Desertification add further climate-relevant obligations, including obligations to protect human health and ecosystems.

Significantly, the Court clarified that a State's failure to protect the climate system from greenhouse gas (GHG) emissions — including through fossil fuel production and consumption, the granting of exploration licenses, or the provision of subsidies — may itself constitute an internationally wrongful act attributable to that State (para. 427). This is the first time the World Court has framed fossil fuel policy decisions explicitly within the framework of State responsibility under international law — a finding of direct relevance to WHO's work on the health impacts of fossil fuel combustion and to ongoing negotiations on climate-related WHA resolutions.

The fourth source is **international human rights law**. States have obligations under the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC) to take measures to protect the climate system in order to ensure the effective enjoyment of human rights (para. 403). For health practitioners, three findings are essential.

Right to health (Art. 12 ICESCR): The Court devoted a substantial paragraph (para. 379) to the right to health, identifying it as a central element of its human rights analysis. It anchors the environmental quality as a dimension of the right to health drawing on the Committee on Economic, Social, and Cultural Rights General Comment No. 14 (2000), which affirms that States must refrain from unlawfully polluting air, water, and soil. The Court also cites Human Rights Council Resolution 53/6 on climate–health implications and expressly invokes WHO's finding that climate change potentially poses "the greatest threat to global health in the 21st century" (WHO, Health, Environment and Climate Change, Doc. A71/10, 2018), thereby lending that evidence the imprimatur of the world's highest court.

Right to a clean, healthy, and sustainable environment (R2HE): Confirming General Assembly resolution 76/300 (2022), the Court held this right is "a precondition for the enjoyment of many human rights, such as the right to life, the right to health and the right to an adequate standard of living …" (para. 393). Health advocates should note one limit: the R2HE does not appear in the operative findings with the same standing as treaty-based duties. Its primary legal function is to serve as an interpretive lens — but a powerful one: it makes environmental protection legally inseparable from human rights compliance.

Non-refoulement and climate displacement: States have obligations under Article 6 ICCPR where there is a real risk of irreparable harm to the right to life if individuals are returned to their country of origin due to climate-related conditions (para. 378) — a finding with direct implications for health systems receiving climate-displaced populations.

Human rights and climate obligations are mutually reinforcing and must be read together (para. 404): States must account for human rights when implementing climate obligations, and vice versa.

3. LEGAL CONSEQUENCES

Any breach of the obligations identified constitutes an internationally wrongful act entailing State responsibility. Four consequences follow.

Continued performance: A breach does not extinguish the underlying obligation. States remain bound to act — including, for instance, by revising an inadequate NDC under the Paris Agreement (para. 446).

Cessation: The responsible State must cease any continuing wrongful act and may be required to revoke legislative or administrative measures constituting that act. Assurances and guarantees of non-repetition may also be required (paras. 447–448).

Reparation: Full reparation — through restitution, compensation, and/or satisfaction — is owed to injured States (and, in human rights cases, to injured individuals) where a sufficiently direct and certain causal nexus between the wrongful act and the injury can be established (paras. 449–455). The Court rejected the view that causation cannot be established in climate cases: the applicable standard is "flexible enough" to address the challenges posed by the diffuse and cumulative nature of climate harm (para. 436). As climate attribution science matures, health-specific harms — heatwave mortality, vector-borne disease spread, malnutrition — are increasingly attributable with the specificity this framework requires.

***Erga omnes* character**: Any State — even one not directly affected by another State's emissions — has a legal interest in compliance and can hold a polluting State legally accountable. These are not bilateral obligations that only directly harmed countries can invoke. The Court confirmed this by characterising States' obligations to protect the climate system as *erga omnes* obligations — duties owed to the international community as a whole — and, in the treaty context, as *erga omnes partes* (owed to all parties to the relevant treaty) (paras. 439–443). For small island developing States and least-developed countries that contribute minimally to global emissions but bear disproportionate health burdens, this is a significant expansion of legal standing, though non-injured States may claim cessation and guarantees of non-repetition rather than reparation for themselves (para. 443).

> "The questions posed by the General Assembly represent more than a legal problem: they concern an existential problem of planetary proportions that imperils all forms of life and the very health of our planet."
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> ICJ Advisory Opinion, para. 456 (23 July 2025)

4. IMPLICATIONS FOR GLOBAL HEALTH GOVERNANCE AND LAW

a) WHO, Health Law, and Institutional Governance

WHO actively participated in the ICJ proceedings — both in written submissions and in oral statements delivered personally by Director-General Tedros Adhanom Ghebreyesus at the final hearing on 13 December 2024. The Court's explicit endorsement of WHO's scientific authority — treating WHO's characterisation of climate change as the greatest threat to global health as a legally operative fact — strengthens WHO's mandate to engage across the climate-health nexus not merely as a technical observer, but as an institution whose outputs define the standard of care under international law.

For WHO and the WHA, the Opinion establishes that States' duties to protect the right to health **now legally require addressing upstream environmental determinants**, including GHG emissions. Health ministers can invoke the due-diligence standard when advocating for ambitious NDCs; WHO can frame technical assistance on mitigation co-benefits (clean air standards, fossil fuel phase-out health impacts) and adaptation (heat-health action plans, climate-sensitive disease surveillance) as legally grounded, not merely aspirational.

The 2024 amendments to the International Health Regulations (IHR), in force since 19 September 2025, and the Pandemic Agreement, adopted in May 2025 but not yet in force pending adoption of its pathogen access and benefit-sharing annex, operate in a legal environment further clarified by the Opinion. The Court's recognition that the Paris Agreement preamble expressly links climate action to the right to health (para. 374) provides doctrinal support for cross-referencing climate obligations in health treaty frameworks: pandemic prevention and health system resilience are inseparable from climate mitigation and adaptation as a matter of international law.

This matters practically for IHR implementation: States that fail to implement adequate climate mitigation and adaptation measures may, simultaneously, also breach their obligations under the IHR to prevent, protect against, control, and respond to the international spread of disease. Climate change is already altering the geographic range of vector-borne diseases such as dengue and malaria, intensifying heat-related illness, and disrupting food and water security — all core public health threats the IHR was designed to address. This applies equally to adaptation: States with inadequate heat-health action plans, insufficient climate-sensitive disease surveillance, or underfunded health services for climate-displaced populations may be in breach of both their climate and IHR obligations simultaneously. The Court's framework therefore provides a legal basis for treating climate-resilient public health infrastructure not as an optional addition to IHR compliance, but as a legal requirement.

b) Accountability: Institutions, Negotiations, and Litigation

The Opinion's most immediate institutional implication is that climate negotiations — UNFCCC COPs, NDC cycles, loss-and-damage fund operationalisation — now take place against a background of authoritatively clarified legal obligations. UNGA resolution 80/263 (2026) operative paragraph 2(c) specifically calls upon all States to comply with their obligations, including by '[r]especting and ensuring the effective enjoyment of human rights of peoples and individuals under international law, by taking necessary measures to protect the climate system and other parts of the environment'. Health constituencies within multilateral processes can shift the framing from "health as a co-benefit of climate action" to "health as a legally required outcome of climate compliance."

International financial institutions (World Bank, International Monetary Fund, regional development banks) now operate under a sharpened legal standard. The Court found that a State's failure to protect the climate system from greenhouse gas emissions — including through fossil fuel production and consumption, granting exploration licences, or maintaining subsidies — may itself be a violation of international law. In practice, this means that a multilateral development bank financing a new coal plant in a country with inadequate climate policies could be contributing to, or facilitating, conduct that breaches that State's international obligations. This has direct implications for the sustainability and human rights frameworks that these institutions apply to their lending decisions. Human rights treaty bodies under the ICCPR and ICESCR can sharpen General Comments, country reviews, and individual communications in light of the Court's articulation of the right to health's environmental dimension. On loss and damage, general rules on State responsibility apply to breaches of Paris Agreement obligations and are not excluded by the Article 8 mechanism (paras. 415, 420), strengthening the basis for claims before the Fund for Responding to Loss and Damage.

On litigation, the Opinion provides a legal framework now actively shaping domestic and international proceedings. Domestic courts in the Netherlands, Germany, France, Australia, Colombia, Pakistan, and others are already applying international human rights law to climate claims. The Court's analysis — linking climate inaction directly to violations of the right to health — makes it easier for courts and advocates to argue that a State's failure to cut emissions harms people's health in a legally cognisable way: not just scientifically or morally, but under binding law. WHO's own submission to the Court identified six cross-cutting health impact pathways — disease burden, heat-related illness, air pollution, food and water insecurity, disasters, and mental health — each of which constitutes a potential factual basis for a rights-based climate claim. Air pollution — ambient and household combined, much of it from fossil fuel combustion — is associated with approximately 7 million premature deaths annually worldwide. The convergence of the ICJ, ITLOS, and IACtHR opinions across three distinct judicial fora makes it increasingly untenable for States to treat climate inaction as legally cost-free.

5. CONCLUSION

The ICJ Advisory Opinion marks a turning point. It crystallises what many had argued — that climate inaction is not merely a political failure but a legal one — and does so with unanimous authority and comprehensive scope. For the global health community, three durable pillars emerge.

First, health is now a legal criterion, not merely a political or moral aspiration, for evaluating State climate conduct. States cannot credibly fulfil their human rights treaty obligations while subsidising fossil fuels, maintaining inadequate NDCs, or failing to cooperate in good faith on adaptation finance. Integrating climate due-diligence standards into health policy is no longer aspirational: it is legally grounded. This includes, the Court made clear, decisions about fossil fuel production and consumption, exploration licensing, and subsidies — an issue of direct relevance to WHO's ongoing work on air pollution, and to the negotiations on climate-related WHA resolutions.

Second, WHO and multilateral health institutions have a strengthened mandate to engage with climate obligations as legal imperatives. Incorporating climate resilience into IHR review processes, health system strengthening frameworks, and pandemic preparedness instruments follows directly from the Court's findings. The Court's endorsement of WHO's scientific authority reinforces its institutional leverage in climate negotiations and domestic policy processes.

Third, litigation and accountability mechanisms will increasingly use the health-climate nexus. Health professionals, research institutions, and civil society can contribute by building the evidentiary base for attribution, documenting climate-health harms, and engaging with treaty bodies and national courts. The convergence of the ICJ, ITLOS, and IACtHR opinions makes the legal case cumulative and cross-reinforcing.

There is also a cost dimension that cannot be avoided. Integrating climate change into health planning — climate-resilient infrastructure, disease surveillance calibrated to climate-sensitive pathogens, heat-health action plans, mental health provisions for climate-displaced populations — requires sustained investment. For low- and middle-income health systems facing compound climate burdens, the financial stakes are especially acute. But the Opinion makes clear that the costs of inaction are no longer merely epidemiological. They are legal, in the form of potential reparations liability; financial, in the form of foregone adaptation co-financing; and reputational, before international tribunals and domestic courts. The cost of inaction, measured in preventable deaths, disability, and health system collapse, far exceeds the cost of proactive compliance.

The Advisory Opinion has done the doctrinal work. It has established, authoritatively and unanimously, that climate obligations are legal obligations, that health is a legal criterion for evaluating States' climate conduct, and that breach carries legal consequences. The task for the global health community is now to translate this legal architecture into policy, practice, and accountability — across WHO, national health ministries, multilateral negotiations, and the courts.

Key Primary Sources

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