

What Does the International Court of Justice Advisory Opinion on Climate Change Mean for Climate Adaptation?

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In July 2025, the International Court of Justice (ICJ) delivered its landmark Advisory Opinion on the Obligations of States in Respect of Climate Change. The opinion provides authoritative legal guidance on states' obligations to address climate change and prevent significant harm to vulnerable countries and communities. While the opinion is non-binding, it makes clear that failure to act can trigger legal consequences. States require timely and accessible analysis to understand their legal obligations and the consequences of breaching them.

This brief is part of a series of publications aimed at unpacking the implications of the opinion and suggesting clear actions governments can take to ensure compliance across five critical areas: climate adaptation, environmental impact assessments, environmentally harmful subsidies, international investment law, and multilateral environmental agreements.

Introduction

Traditionally, climate change adaptation is seen as a domestic, voluntary endeavour that is often linked to national development agendas and goals. But in 2025, the ICJ's landmark opinion stipulates unequivocally that international climate change treaties and other international laws impose binding obligations on states to undertake adaptation planning and implementation and sets the standards for assessing states' compliance with these adaptation obligations (ICJ, 2025).

This policy brief outlines what the Advisory Opinion means for climate change adaptation. It examines how adaptation obligations arise from treaty law and customary international law as set out by the court, and what implications they have for adaptation policy-makers and practitioners in terms of national adaptation planning processes and compliance with international laws.



Why the Advisory Opinion Matters for Adaptation

Climate change adaptation is one of the core pillars of the international climate regime. It is the process of preparing for, and adjusting to, actual or expected impacts associated with climate change (Intergovernmental Panel on Climate Change [IPCC], 2022). Fundamentally, adaptation is about protecting people in an uncertain future and making communities, economies, and ecosystems more resilient to a changing climate.

Despite adaptation appearing prominently in the United Nations Framework Convention on Climate Change (UNFCCC, Articles 3.3, 4.1.b, and 4.1.e), its Kyoto Protocol (Article 10.1.b), and the Paris Agreement (Article 2.1.b and Article 7), it is still often framed as a domestic policy choice rather than a binding international obligation. This “domestic, voluntary” framing stems from the country-driven, context-specific nature of adaptation. It is multifaceted and depends on national contexts and circumstances, as well as differing levels of risks arising from the dynamic interactions between hazards, vulnerabilities, and exposures.¹ Therefore, it is commonly thought that countries have broad discretion over how, to what extent, and through what actions they engage in adaptation planning and implementation.

Additionally, policy-makers and practitioners have developed the perception that international legal provisions on adaptation impose few binding obligations on parties to the UNFCCC and the Paris Agreement, and are more aspirational in nature (Bodansky, 2017; Hall & Persson, 2017). Combined with the fact that most countries’ adaptation responses are linked to socio-economic development, planning agendas, and comprehensive risk management policies (Koehl, 2022), these factors reinforce the view that adaptation is something states *choose* to do rather than what they *must* do under international law.

The Advisory Opinion represents a major shift in how adaptation is perceived through an international law lens. The court was clear that “adaptation obligations under the Paris Agreement complement the mitigation obligations in preventing and reducing the harmful consequences of climate change” (ICJ, 2025, para. 259). It clarifies that both treaty law and customary international law impose legally binding obligations upon states to undertake adaptation planning actions to prepare for, prevent, and address foreseeable climate hazards and vulnerabilities. The court also considers the standard of due diligence as a measure to assess states’ compliance with their adaptation obligations under international law (see below for further information).

¹ The IPCC (2020) defines risks as the “potential for adverse consequences for human or ecological systems.” Risks arise from the “dynamic interactions between climate-related hazards with the exposure and vulnerability of the affected human or ecological system to the hazards” (IPCC, 2020, p. 5). Risk is compounded by both the potential *impacts* of climate change and the human *responses* to climate change.



Adaptation Obligations Under International Law

The court observes that under the UNFCCC and the Paris Agreement, the respective parties have procedural obligations to engage in adaptation planning processes and the implementation of adaptation actions (ICJ, 2025, paras. 255-257). These include, *inter alia*:

- the formulation, submission, and regular updating of national adaptation plans, policies or strategies;²
- the assessment of climate change impacts and vulnerability, and the monitoring, evaluation and learning from adaptation actions;³
- the integration of climate change considerations in relevant social, economic, and environmental policies and actions, while employing appropriate methods to minimize adverse effects that adaptation projects or measures could have on the economy, public health, or the quality of the environment;⁴ and
- the strengthening of international cooperation to enhance adaptation actions and support.⁵

These procedural obligations are accompanied by a substantive obligation to strive to achieve the Global Goal on Adaptation of “enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the [long-term] temperature goal” as outlined in Article 7, paragraph 1 of the Paris Agreement.

The Advisory Opinion clarifies that with the use of “shall” in the adaptation provisions, both the UNFCCC and the Paris Agreement “impose a legally binding obligation upon the parties to undertake adaptation planning actions,” rather than optional or voluntary (ICJ, 2025, paras. 211, 213, 256). But given the country-driven, context-specific nature of adaptation, the court observes that these provisions continue to provide parties with some discretion in the implementation of these obligations. This discretion, nevertheless, does not detract from the legally binding nature of parties’ procedural and substantive obligations related to adaptation under international law.

Adaptation Assessed Against a Standard of Due Diligence

The Advisory Opinion notes that a standard of due diligence would be used to assess the parties’ fulfillment of their adaptation obligations (ICJ, 2025, para. 258). This means that, in terms of adaptation, acting with due diligence requires the parties to

- **use their best efforts to enact appropriate adaptation measures, in a timely manner**, to reduce the risk of significant harm occurring due to climate change impacts;

² As per Article 4, paragraph 1(b) of the UNFCCC and Article 7, paragraph 9 of the Paris Agreement.

³ As per Article 7, paragraph 9 of the Paris Agreement.

⁴ As per Article 4, paragraph 1(f) of the UNFCCC.

⁵ As per Article 7, paragraph 7 of the Paris Agreement.



- **base their adaptation planning and implementation, such as the national adaptation plan (NAP) process, on the best available science** and technological information, namely information, knowledge, and tools from the IPCC and other international rules, standards, guidelines, and best practices;
- **take precautionary measures and enact forward-looking policies**, such as integrating climate risk considerations in development policies and plans or continuously updating building codes and infrastructure standards to reflect climate realities;
- **ensure continuous improvement by following the dimensions of the iterative adaptation cycle** (defined by the UAE Framework for Global Climate Resilience as impact, vulnerability, and risk assessments; planning; implementation; monitoring, evaluation and learning; and iteration of these four steps), as the due diligence standard, just like adaptation, is “multifactorial and evolutive in nature” (ICJ, 2025, para. 292); and
- **follow a country-driven, gender-responsive, participatory, and fully transparent approach** to adaptation planning and implementation.

States that fail to respond to the growing climate risks may be found in breach of their adaptation obligations under the climate treaties, as well as under customary international law. Therefore, states should proactively engage in processes to formulate and implement NAPs or other national adaptation policies or strategies and follow the relevant guidelines and guidance developed under or endorsed by the UNFCCC process.

Adaptation Finance and International Cooperation

The court notes that the determination of the applicable standard of due diligence needs to consider the principle of common but differentiated responsibilities and respective capabilities (ICJ, 2025, paras. 290–292). The Advisory Opinion is clear that developed countries have a binding obligation to provide and mobilize means of implementation (including finance, technology transfer, and capacity-building support) to developing countries for adaptation (ICJ, 2025, paras. 211, 264, and 266). Therefore, the provision and the mobilization of means of implementation for adaptation are relevant for assessing whether developed countries have exercised due diligence and have fulfilled their obligations. Recent decisions by the Paris Agreement governing body, including the New Collective Quantified Goal on Climate Finance (Decision 1/CMA.6) and the Mutirão decision’s call to at least triple adaptation finance by 2035 (Decision 1/CMA.7), set a reference point for assessment.

It is important to note that a standard of due diligence does not absolve a state of its responsibility to fulfill its obligations simply because of incapacity or lack of sufficient means of implementation. States must use “all the means at their disposal,” and must take feasible steps within their capacity to plan and implement adaptation actions. Increasing the domestic resource mobilization for adaptation could also be a relevant reference point for assessment against a standard of due diligence.



Lastly, the court also notes that adaptation is a global challenge, and states have a duty to cooperate under customary international law (ICJ, 2025, paras. 264–267, 301–308). This means states need to pursue technical cooperation and knowledge sharing for the achievement of the Global Goal on Adaptation.

Adaptation and International Human Rights Laws

The Advisory Opinion affirms that the adverse effects of climate change may “significantly impair the enjoyment of certain human rights,” including the right to life; to a healthy environment; to health; to an adequate standard of living, privacy, family, and home; to food and water security; and the rights of women, children, and Indigenous Peoples (ICJ, 2025, paras. 372–404). The court considers that a clean, healthy, and sustainable environment underpins the enjoyment of other human rights, and adaptation is essential to safeguarding these rights in a changing climate.

When formulating and implementing national adaptation plans, policies, or strategies, states should take into consideration climate-related human rights risks and pay particular attention to groups who are disproportionately affected by climate change, especially those who are intersectionally marginalized. States that fail to use their best efforts to implement adequate and timely adaptation measures and prevent significant harm from occurring due to climate change impacts may be in breach of their international human rights obligations.

Synergies Between Adaptation Obligations and Biodiversity and Land-Restoration Obligations

The court settles the *lex specialis* question in the Advisory Opinion and rejects some states’ argument that international climate change treaties would exclude or override other relevant treaty law or customary international law on matters relating to climate change (ICJ, 2025, paras. 162–171). The Advisory Opinion emphasizes that climate treaties and other multilateral environmental agreements (MEAs) inform and reinforce each other (learn more about this in *What Does the International Court of Justice Advisory Opinion on Climate Change Mean for MEAs?*).

The implementation of adaptation-related provisions in other MEAs contributes to states’ compliance with their adaptation obligations under climate treaties and customary international law. Some examples include actions undertaken to achieve Targets 8 (minimize the impacts of climate change on biodiversity and build resilience) and 11 (restore, maintain, and enhance nature’s contributions to people) of the Kunming-Montreal Global Biodiversity Framework under the Convention on Biological Diversity (CBD); or integrated land management practices undertaken under the UN Convention to Combat Desertification (UNCCD)—all of which could form a part of a state’s overall effort to meet its adaptation obligations.

Conversely, adaptation planning and implementation undertaken under the UNFCCC and the Paris Agreement could also contribute to states’ efforts to meet their respective obligations under the CBD and the UNCCD, especially when synergistic approaches such as nature-



based solutions or ecosystem-based adaptation are integrated into their NAPs, policies, or strategies (Qi et al., 2025). Thus, states should interpret and implement the different MEAs in a holistic and integrated manner, as a fragmented and siloed approach may weaken adaptation, biodiversity, and land degradation neutrality outcomes, and increase climate and legal risks.

Recommendations for States

Some key recommendations for policy-makers and practitioners involved in the national adaptation planning processes include the following:

- **Adaptation can no longer be viewed as solely a domestic policy choice, but as a binding obligation under international law and assessed against a standard of due diligence.** This means all countries must use their best efforts to engage in adaptation planning and implementation, based on the best available science, and to undertake precautionary and forward-looking measures, continuously adjusting their responses as climate risks evolve. Countries continue to have discretion over how adaptation is planned and implemented based on their risk contexts and national circumstances, provided such efforts aim to prevent and address foreseeable climate harm.
- **National adaptation plans, policies, and strategies, therefore, take on a renewed significance** as instruments through which countries may demonstrate their commitments to, and compliance with, international laws through the exercise of due diligence. Countries should strive to formulate and submit their national adaptation plans, policies, and strategies and progress in implementing them by 2030, as decided in the UAE Framework for Global Climate Resilience (UNFCCC, 2023).
- **Developed countries have a binding obligation to provide and mobilize adaptation finance, technology transfer, and capacity building for developing countries,** in the context of the New Collective Quantified Goal on Climate Finance and the Mutirão decision's call to at least triple adaptation finance by 2035. All countries have the obligation to cooperate with each other on adaptation knowledge sharing.
- **A country-driven, gender-responsive, participatory, and fully transparent approach** that integrates human rights considerations and pays particular attention to vulnerable people, places, and ecosystems is integral to effective adaptation planning and implementation that yield equitable benefits for people of all backgrounds.
- **A fragmented and siloed approach undermines adaptation outcomes.** Obligations under other relevant MEAs and international human rights law are interrelated with countries' adaptation obligations, and they all form part of the legal context against which adaptation efforts are assessed. Integrated and synergistic approaches to address the climate and biodiversity crises and land degradation strengthen adaptation, biodiversity, and land degradation neutrality outcomes, as well as legal robustness.



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