

# ICJ AO Litigation Notes Digest February 2026

Litigation Note on the Right to a Healthy Environment



# Core Project Partners

(in alphabetical order)

- Asociación Interamericana para la Defensa del Ambiente (AIDA)
- Center for International Environmental Law (CIEL)
- ClientEarth (CE)
- Climate Litigation Network (CLN)
- Environmental Lawyers Collective for Africa (ELCA)
- Egyptian Foundation for Environmental Rights (EFER)
- Greenpeace International (GPI)
- Legal Initiative for Forest and Environment (LIFE)
- Milieudefensie
- Natural Justice
- Pacific Island Students Fighting Climate Change (PISFCC)
- World's Youth for Climate Justice (WYCI)

## Cover Illustration and Layout

- Rossella Recupero, CIEL

For any questions, please contact

- Joie Chowdhury, Senior Attorney & Climate Justice and Accountability Manager at CIEL: [jchowdhury@ciel.org](mailto:jchowdhury@ciel.org)
- Aditi Shetye, Lead of Strategic Litigation at WYCI: [aditi@wy4cj.org](mailto:aditi@wy4cj.org)

© February 2026



World's Youth  
for Climate  
Justice



CENTER for INTERNATIONAL  
ENVIRONMENTAL LAW

ClientEarth 



Climate  
Litigation  
Network

EFER EGYPTIAN FOUNDATION  
FOR ENVIRONMENTAL  
RIGHTS

المؤسسة المصرية للحقوق البيئية



ENVIRONMENTAL  
LAWYERS COLLECTIVE  
FOR AFRICA



LIFE



NATURAL  
JUSTICE



MILIEU  
DEFENSIE  
FRIENDS OF THE EARTH NETHERLANDS

GREENPEACE



AIDA



PACIFIC ISLANDS  
STUDENTS FIGHTING  
CLIMATE CHANGE

# About this publication

## Background

On 23 July 2025, the International Court of Justice (ICJ) delivered its historic unanimous advisory opinion (AO) on States' obligations in relation to climate change. Following the landmark climate advisory opinions from the International Tribunal for the Law of the Sea and the Inter-American Court of Human Rights, the ICJ provided exceptional clarity regarding the scope and content of States' duties under international law in the context of the climate crisis. This clarity has the potential to substantially enhance and inform ongoing climate cases as well as future claims before domestic, regional, and international courts. Indeed, since its issuance, the opinion has already been quietly and pervasively taken up across the litigation landscape.

To translate the ICJ AO's normative clarity into practical litigation tools, a coalition of climate litigation practitioners have developed this compendium of structured "Litigation Notes". These notes are designed to assist lawyers in integrating relevant conclusions of the ICJ AO into ongoing and future cases before domestic, regional, and international courts and quasi-judicial bodies towards advancing climate justice.

The litigation notes break down the opinion by topic, prioritizing topics particularly charged in courts at present and/or critical for evolving strategies and the next "generation" or phase of climate litigation. The notes do not aim to be comprehensive in scope. Each contains sections on:

- Key excerpts (including paragraph numbers and specific references) of the most relevant text from the opinion
- Situating the core findings in examples from the broader jurisprudential landscape to highlight what types of cases and claims could use such excerpts

The compendium also includes a list of selected excerpts of overarching importance.

**This thematic brief is part of a broader litigation notes compendium organized by topic; the full compilation is available here: [www.ciel.org/reports/icj-litigation-notes-digest](http://www.ciel.org/reports/icj-litigation-notes-digest)**

# Litigation Note on the Right to a Healthy Environment

*Authors: Liliana Avila and Mariana Campos<sup>45</sup>  
Reviewers: David Boyd and Joie Chowdhury<sup>46</sup>*

## Introduction

The International Court of Justice (ICJ)'s unanimous conclusion in its Climate Advisory Opinion (AO) that the right to a clean, healthy, and sustainable environment [constitutes a binding norm of international law](#) is of critical importance, as is the Court's affirmation that this right is a precondition for the enjoyment of many other human rights. As noted by the ICJ, the right to a healthy environment is deeply embedded in national constitutions and legal systems worldwide. The ICJ's recognition of this right as part of the applicable legal framework governing States' climate obligations provides a critical entry point for rights-based climate litigation, not only at the international and regional levels, but also before domestic courts across jurisdictions.

This litigation note distills key findings from the ICJ AO relevant to the right to a healthy environment, without claiming to be comprehensive. Two sections follow: key excerpts from the AO and categories of climate litigation for which those excerpts may be relevant.

## Relevant Excerpts from the ICJ AO

The ICJ AO clarifies States' legal obligations and standards in relation to climate change, including with respect to the right to a healthy environment and, through it, the broader range of rights protected under international law.

---

<sup>45</sup> Inter-American Association for Environmental Defense (AIDA) and World Youth for Climate Justice (WYCJ), respectively.

<sup>46</sup> University of British Columbia and Center for International Environmental Law (CIEL), respectively.

## A. State Obligations on Climate Change and the Right to a Clean, Healthy and Sustainable Environment

*The right to a clean, healthy, and sustainable environment is a binding norm of international law, a precondition for the enjoyment of many other human rights, and part of the applicable legal framework governing State obligations in relation to climate change.*

### **Climate System as an Element of the Environment**

**Para. 75:** The Court begins from a definitional premise that the climate system is an element of the environment. Accepting the IPCC definition, it observes that the climate system comprises “the atmosphere, the hydrosphere, the cryosphere, the lithosphere and the biosphere and the interactions between them,” and that this definition is substantially equivalent to that of the UNFCCC. This characterization situates climate protection squarely within the broader framework of environmental protection.

### **Interdependence between environmental protection and human rights**

**Para. 144:** The Court recognizes that protection of the environment and protection of human rights have generally been identified as legally interdependent since at least the Stockholm Declaration of 1972, pointing also to the preamble to the Paris Agreement, which calls for human rights obligations to be taken into account when addressing climate change.

**Para. 145:** In relation to States’ climate obligations, the ICJ considered that the core universal human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), and other human rights recognized under customary international law, constitute part of the most directly relevant applicable law.

**Paras. 372–386:** Following a detailed assessment, the Court concludes that the adverse effects of climate change “may impair the effective enjoyment of human rights.”

### **The right to a clean, healthy, and sustainable environment as a human right**

**Para. 392:** The ICJ identified a growing recognition of the right to a clean, healthy, and sustainable environment and summarized its consolidation through universal and regional agreements and other instruments, and national constitutions/legislation. It also recognized General Assembly Resolution 76/300 (2022), which declares it a human right.

**Para. 393:** Upon analysis, the Court concluded that “a clean, healthy and sustainable environment 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, including access to water, food and housing. The right to a clean, healthy, and sustainable environment results from the interdependence between human rights and the protection of the environment. Consequently, **in so far as States parties to human rights treaties are required to guarantee the effective enjoyment of such rights, it is difficult to see how these obligations can be fulfilled without at the same time ensuring the protection of the right to a clean, healthy and sustainable environment as a human right.** The human right to a clean, healthy and sustainable environment is therefore inherent in the enjoyment of other rights. The Court thus concludes that, under international law, the human right to a clean, healthy and sustainable environment is essential for the enjoyment of other human rights.” (emphasis added)

### ***Obligations of States under international human rights law to protect the climate system and other parts of the environment***

**Para 403:** Taking into account the adverse effects of climate change on the enjoyment of human rights, the ICJ considers that the full enjoyment of human rights — and, necessarily, the right to a clean, healthy and sustainable environment — cannot be ensured without the protection of the climate system and other parts of the environment. The ICJ considered that in order to guarantee the effective enjoyment of human rights, “States must take measures to protect the climate system and other parts of the environment. These measures may include, inter alia, taking mitigation and adaptation measures, with due account given to the protection of human rights, the adoption of standards and legislation, and the regulation of the activities of private actors.”

Thus, through integrated reasoning, the Court recognizes the human right to a clean, healthy, and sustainable environment as part of international human rights law, which it identifies as among the most directly relevant applicable law governing States’ climate obligations. The Court’s affirmation that a clean, healthy, and sustainable environment is a precondition for the enjoyment of multiple human rights (life, health, adequate standard of living, water, food, and housing) and is essential for their full realization is a broad-based entry point to human rights claims in relation to climate change.

### ***On relevant conduct breaching climate obligations — including the right to a healthy environment — and triggering legal consequences***

#### Material Scope

**Para. 94:** “[T]he relevant conduct... is not limited to conduct that, itself, directly results in GHG emissions, but rather comprises all actions or omissions of States which result in the climate system and other parts of the environment being adversely affected by

anthropogenic GHG emissions. The Court considers that the material scope of its inquiry encompasses the full range of human activities that contribute to climate change as a result of the emission of GHGs, including both consumption and production activities.”

**Para. 427:** In making the point that “the internationally wrongful act in question is not the emission of GHGs per se,” the Court clarified that the internationally wrongful act constitutes the “breach of conventional and customary obligations identified under question (a) pertaining to the protection of the climate system from significant harm resulting from anthropogenic emissions of such gases.” A State’s failure to take appropriate action to protect the climate system — including in relation to fossil fuel production and consumption, the granting of exploration licences, or the provision of subsidies — may therefore constitute an internationally wrongful act.

This responsibility extends to acts and omissions concerning non-State actors within a State’s “jurisdiction or effective control” (**para. 95**). As the Court further noted (**para. 428**), a State may incur responsibility “where, for example, it has failed to exercise due diligence by not taking the necessary regulatory and legislative measures to limit the quantity of emissions caused by private actors under its jurisdiction.”

#### Temporal Scope

**Para. 423:** While the Court acknowledged that the breach of a climate obligation does not necessarily occur through “one, temporally contained, action or omission,” it concluded “the issue of temporal scope of the obligations, and the related issue of breach of those obligations, comprise elements of an *in concreto* assessment for the determination of State responsibility...”

#### ***Systemic integration and the rejection of lex specialis***

**Para. 169:** The ICJ clarified that the Court cannot identify “a discernible intention of the parties to the climate change treaties generally to displace other possibly applicable rules or principles.” Thus, the Court concluded that the principle of *lex specialis* does not lead to a general exclusion of other rules of international law — including the right to a healthy environment — by climate treaties.

**Para 404:** Notably, the Court affirmed a systemic integration approach to applicable law, making clear that international human rights law, climate treaties, other environmental treaties, and relevant customary obligations inform one another, and that States must implement their obligations in an integrated manner. Accordingly, when invoking the AO in relation to the right to a healthy environment, it is important to consider other relevant aspects of the Opinion that may apply to the specific claim, including the customary duty to prevent significant environmental harm, to which the Court confirmed a stringent standard of due diligence applies.

## B. International Responsibility and the Right to a Healthy Environment

*Legal consequences arise where States breach any relevant primary obligations related to climate change, including obligations relating to the protection of the right to a clean, healthy, and sustainable environment.*

### **On Applicable Law**

**Paras. 405–407:** The ICJ clarified generally that legal consequences may arise for States that breach any of the obligations in relation to climate change identified in relation to question (a) of the request for an advisory opinion.<sup>47</sup> As detailed above, the Court concluded that such obligations encompass the right to a clean, healthy, and sustainable environment. The legal consequences that arise for such internationally wrongful acts of States “are to be ascertained on the basis of the primary rules and the customary rules on State responsibility.”

**Para. 445:** The Court recalled that every internationally wrongful act gives rise to responsibility and that violations may give rise to the full set of consequences provided for by the law of responsibility: cessation and non-repetition (even without damage) and full reparation (restitution, compensation, and/or satisfaction), without extinguishing the continuing duty to comply with the violated obligation.

**Para. 450:** With regard to full reparation, the Court reiterates the classic standard of international law, according to which reparation must “remove all consequences” of the unlawful act and restore the situation that would probably have existed had the act not been committed. In addition, it addresses the elements of full reparation, which are not limited exclusively to financial compensation, but also include, among others, restitution and satisfaction, in accordance with the characteristics of each case.

For further details on the nature of legal consequences, attribution, and causality as well as forms of redress, *cf. Litigation Note on Climate Reparations*.

---

<sup>47</sup> For the two questions see *Obligations of States in respect of Climate Change* (Advisory Opinion), 2025 I.C.J. Rep., pp. 8–9 (July 23, 2025), available at [www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf](http://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf).

# Categories of Climate Cases Relevant to the Excerpts

The following categories and examples of cases, including claims based on the right to a healthy environment, illustrate key contexts in which States' and corporate actors' corresponding obligations have been, or could be, litigated, and in which the aforementioned excerpts may be relevant. These examples are provided for illustrative purposes only and do not necessarily indicate that the ICJ AO has been invoked or applied in those proceedings.

The ICJ consolidates an integrated reading of climate change as an issue of environmental protection and human rights. In this framework, the right to a healthy environment is recognized as a foundational norm. In effect, (i) it defines climate as part of the environment in a systemic sense; (ii) it rejects an exclusionary *lex specialis* interpretation; (iii) it strengthens customary obligations such as the duty to prevent significant harm to the environment; (iv) it affirms that the full enjoyment of human rights requires protection of the climate system; and (v) it articulates international responsibility and its remedies of cessation and full reparation. The cases set out below complement the Court's reasoning by highlighting how this right has been recognized and given content in judicial and quasi-judicial proceedings, and in which types of cases the excerpts above might be drawn upon. The examples provided are for illustrative purposes only and do not suggest that the ICJ AO has been invoked or applied in those proceedings.

The authoritative weight of the ICJ AO conclusions will vary by jurisdiction and legal system. Please note that the case categories are not mutually exclusive, and cases can fall into one or more of the following categories.

## The right to a healthy environment as an autonomous right

The relevance of the aforementioned excerpts to litigation arguing a breach of the right to a healthy environment as an autonomous right.

*Examples:* Judicial recognition of the right to a healthy environment as a fundamental and autonomous right has emerged across jurisdictions. In [\*Minors Oposa v. Secretary of the Department of Environment and Natural Resources \(Philippines\)\*](#), the Supreme Court affirmed that the right to a “balanced and healthful ecology,” although located among constitutional principles and policies rather than within the traditional bill of rights, is of fundamental importance, as it concerns human self-preservation and survival and may be understood as predating governments and constitutions. The Court emphasized that its constitutional recognition reflects the framers' concern that, absent a clear mandate, the

State might fail to protect the environment and public health, to the detriment of present and future generations, and clarified that the right entails a correlative duty on the State and other actors to refrain from environmental harm.

Similarly, in [Advisory Opinion OC-23/17](#), the Inter-American Court of Human Rights affirmed that the right to a healthy environment is an autonomous right, protecting environmental components such as forests, rivers, and seas as legal interests in themselves. The Court stressed that environmental protection is required not only because of its utility to human beings or its connection to other human rights, but also because of the environment's intrinsic value and its essential role in sustaining life and other living organisms. These decisions underscore the independent legal status of the right to a healthy environment and its foundational role in protecting present and future generations.

### **Litigation linking the right to a healthy environment with environmental degradation and/or the rights of nature**

This category includes cases and authoritative findings that articulate the causal and normative relationship between environmental harm and violations of human rights, and/or those recognizing nature as a rights-bearing subject. Although not addressed in the ICJ AO, litigation around the rights of nature is often closely linked to the right to a healthy environment.

*Examples:* In [Judgment T-622 of 2016](#) (Colombia, Atrato River case), the Colombian Constitutional Court found that illegal mining and the use of toxic substances severely affected the rights to life, health, water, food security, culture, territory, and a healthy environment of ethnic communities. The Court recognized the interdependence between environmental protection and human rights within the framework of biocultural rights, and held that nature should be conceived not only as the environment of human beings but also as a subject of rights in its own right. Similarly, in [Inhabitants of La Oroya v. Peru](#), the Inter-American Court of Human Rights found that severe environmental contamination generated a systemic risk to the health, life, and personal integrity of the inhabitants of La Oroya, and held that the State's failure to prevent ongoing contamination and provide adequate care to affected individuals constituted a violation of the collective dimension of the right to a healthy environment under Articles 11 and 26 of the American Convention. Likewise, in [SERAC & CESR v. Nigeria](#), the African Commission on Human and Peoples' Rights held that the right to a satisfactory environment imposes clear obligations on States, including duties to prevent pollution and ecological degradation, promote conservation, and ensure ecologically sustainable development and use of natural resources.

## Litigation on the interdependence, indivisibility, and interrelation of human rights and the environment

This category covers jurisprudence affirming that a clean, healthy, and sustainable environment is a precondition for the effective enjoyment of multiple human rights and is inherent in their protection. Because of its very relevant conclusions in this context, the ICJ AO is especially pertinent for these types of cases.

*Examples:* In [Advisory Opinion OC-23/17](#), the Inter-American Court of Human Rights clarified that the right to a healthy environment has both collective and individual dimensions. Collectively, it constitutes a universal value owed to present and future generations; individually, its violation may directly or indirectly affect rights such as health, personal integrity, and life, owing to its interconnection with other rights. The Court concluded that environmental degradation may cause irreparable harm to human beings, rendering a healthy environment fundamental to human existence.

Similarly, in the [Santurbán Páramo Case](#) (Colombia), the Tribunal emphasized that the protection of ecosystems such as páramos is essential to guaranteeing the right to health under Article 12 of the ICESCR and the right to a healthy environment. It highlighted the ecological functions of the ecosystem and justified its inclusion under a regime of reinforced constitutional protection, supporting its recognition as a subject of rights. Likewise, in [M.K. Ranjitsinh & Ors. v. Union of India & Ors. \(2024\)](#), the Supreme Court of India ruled that the right to a healthy environment includes the right to be free from the adverse effects of climate change, explicitly linking environmental protection to the right to life and the right to equality.

Legal Disclaimer: Nothing in this document constitutes legal advice and nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. The contents of this document are for general information purposes only. Action should not be taken on the basis of this document alone. The authors endeavour to ensure that the information provided is correct, but no warranty, express or implied, is given as to its accuracy and the authors do not accept any responsibility for any decisions made in reliance on this document.