



**International Court of
Justice Advisory Opinion
Campaign**

Toolkit



ICJAO CSO Alliance

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Toolkit for the CSO Alliance on the ICJ Advisory Opinion Campaign

Halo oketa/olgeta, Bula, Namaste, Kia Ora, Kia Orana, Ia Orana, Talofa, Malo, Malo e lelei, Alii, Ekamowir Omo, Iokwe, Kaselehlie, Ran Annim, Paing Kowos, Mogethin and Mauri from the Blue Pacific!

1. About the toolkit

So are you ready to join in solidarity with the allied Pacific Civil Society Organizations (CSO) to take the world's biggest problem to the world's highest court? This toolkit contains all the necessary information and resources you will need to take this campaign forward.

2. Background

Global heating, sea level rise, more frequent and intense extreme weather events and biodiversity decline do not happen in a vacuum. Human consumption of resources have been out of control for decades, and these unsustainable attitudes and behaviors regarding the environment have come at a dire cost. Extreme weather events, air pollution and food and water scarcity are just some of the climate crisis impacts that are now directly infringing on our basic human rights.

a. Human rights and climate change connection

The human rights of people living in communities on the frontline of the climate crisis are already being violated today. The rights to life, housing, food and health are infringed by climate change impacts every day. Vulnerable groups such as women, children, Indigenous populations, the elderly, people living in poverty, and other marginalized demographics are facing the brunt of this crisis. And yet, global society continues to implement sustainable solutions at no more than a glacial pace.

Connections between the climate crisis and human rights are now well established. Climate impacts have been shown to exacerbate pre-existing inequalities and human rights challenges such as poverty, health and well-being, wealth inequality, gender relations, and many others, and to affect vulnerable groups most acutely. Many people's current and future ability to enjoy their human rights to life, water and sanitation, food, education and self-determination will be greatly impacted by the impacts of climate mitigation and adaptation measures.

And yet, global society continues to implement sustainable solutions at no more than a glacial pace. Achim Steiner, Executive Director of UNDP, remarks “While the United Nations and national governments acknowledge that climate change and the responses to it can impact human rights, there is less agreement on the corresponding obligations of governments and private actors to address this problem.” An authoritative clarification of the ‘depth of obligations’ is needed¹.

You can learn more about the connection between human rights and climate change [HERE](#).

b. The Pacific campaign to seek a UN General Assembly Resolution for an Advisory Opinion on Climate Change and Human Rights

In 2011, the climate-vulnerable Pacific Island state of Palau attempted to take climate change to the International Court of Justice. They were seeking clarifications on the obligations of states to cut greenhouse gas emissions to avoid transboundary harm. Palau’s attempts were unsuccessful. In 2015 the International Union for Conservation of Nature (IUCN) passed a resolution supporting the request for an ICJ Advisory Opinion on Intergenerational Equity. A few years later, states from all over the world came together for the Paris Agreement, inviting states to voluntarily commit to emission reduction targets. But so far, states’ contributions have not been ambitious enough to reach the 1.5 degree-target agreed upon in Paris.

In 2019, 27 law students from The University of the South Pacific united in forming Pacific Islands Students Fighting Climate Change. The focus of PISFCC’s ICJ advisory opinion campaign, from its inception has been upon human rights and climate change. In the same year the PISFCC’s proposal was tabled by the Vanuatu government at the Pacific Island Forum. There, the 18 members of the PIF noted positively the proposal for a United Nations General Assembly resolution seeking an advisory opinion from the International Court of Justice on climate change and human rights.

Although a crucial step in the right direction, in order for the resolution to be successful there must be a simple majority vote of the member states of the UN General Assembly. Recognizing this reality, an alliance of Pacific CSOs and youth has been working tirelessly to galvanize support for the initiative, both regionally and internationally. As a result, the campaign has grown beyond the region with youth from around the world having united in this mission under the youth-led umbrella organisation World’s Youth for Climate Justice (WYCJ).

On September 25th 2021, Vanuatu formally announced that they would be pursuing a campaign to request an ICJ advisory opinion on the rights of current and future

¹ (Achim Steiner, UNEP, Nairobi (Kenya), 2015, ENV/CLI/74 E)

generations in the context of climate change in the September 2022 UNGA. Therefore, in an effort to shift gears on the campaign, Pacific CSOs and youth are seeking broad support from like-minded allies around the world for the proposition to join the journey to take the world's biggest problem to the world's highest court!

#EndorseTheAO #FightFor1Point5 #AOLetsGO

3. Brief of the International Court of Justice Advisory Opinions

a. What is the International Court of Justice?

The ICJ is the principal judicial organ of the UN. Also known as 'World Court', the ICJ's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions.

b. What is an ICJ Advisory Opinion?

An advisory opinion of the ICJ is different to a decision in a contentious case. Advisory opinions are provided by the ICJ in response to a legal question that may be sent to it by the United Nations General Assembly, UN Security Council or a UN specialized agency. These opinions are advisory; in other words, unlike the Court's judgments, they are not officially binding. Nevertheless, the Court's advisory opinions do carry its authority and prestige, and are highly persuasive in determining the obligations of international law in other international and national fora.

You can learn more about what an ICJ advisory opinion is through this [LINK](#).

c. How can the ICJAO benefit the climate justice movement?

An ambitious Advisory Opinion on Climate Change and Human Rights from the International Court of Justice can contribute to global progress towards climate justice and intergenerational equity. It can do this by:

- I. Putting humans and human rights at the centre of the climate change discussion, at all levels (nationally, regionally and internationally) addressing the crisis when dealing with mitigation, adaptation, and loss and damage. In short, it can ensure countries have a rights-based approach when taking climate action.
- II. Greater emphasis on human rights during UNFCCC COPs and during the implementation efforts of the Paris Agreement.
- III. Best available science is endorsed by the ICJ, and scientific consensus on climate change and attribution science is reached.
- IV. Countries are encouraged by international law to transition towards a truly sustainable economic model.
- V. Civil society and people utilize this authoritative and sacred advice to hold their governments accountable to their duties to protect their citizens.
- VI. Strengthen a rights-based perspective to the Paris Agreement and all future international agreements to address climate change.

We believe that an advisory opinion on climate change from the ICJ will not just summarize states' existing obligations with regards to human rights and climate change, but that it can also deliver a progressive interpretation of those obligations and encourage more rapid global progress toward intergenerational equity and climate justice.

How do you get an ICJAO through a United Nation General Assembly?

The UN General Assembly can request the ICJ to deliver an advisory opinion. The first phase of this campaign is focussed on galvanizing enough global attention and support for this resolution to pass through the UNGA with at least a simple majority vote and global representation.

The second phase of the campaign would be mainly centered in The Hague, where a broad coalition of youth and civil society organizations are to engage actively in the proceedings, and ensure that the advisory opinion is reflective of the stark reality of climate injustice and for the judges and states to know that the world is watching them. The third phase of the campaign would be the embedding phase, or the enforcement and implementation phase of what the potential advisory opinion would say. The focus here is on ensuring that the AO is used as a vehicle to drive ambition, action and fairness.

4. Key Messages Guidance on ICJAO Campaign

This document seeks to provide initial guidance on key messaging on the CSO ICJAO campaign. It is not a binding document, but rather intends to provide a basis on which to build your messaging.

Audiences

The primary audience we are seeking to influence through this campaign are Heads of Government and UN Ambassadors, who will ultimately make the decision to vote for, against, abstain or 'no-show' on the ICJAO proposal in the UN General Assembly. Whilst some actions we take can influence these people - we also need to reach the secondary and other audiences that influence the primary audience, for example the journalists, civil society organizations and the legal community.

It is important to make sure that the messages you are putting to each audience are relevant, accurate and consistent. For example, the government audiences may care about economic messages, whilst youth audiences may care more about climate justice.

Messaging Principles

The key principles is that all messaging should be:

- Non-confrontational: Focus on the positives not the negatives and try to avoid singling out or isolating particular countries. We are building a global Coalition to protect people and human rights from climate impacts.
- Positive: This campaign is about what we can save, not what we are losing. The ICJAO is an exciting opportunity to make the changes needed to save our planet now.
- Grounded in fact: Be aware of what an ICJAO is and is not. An advisory opinion is not climate litigation. An AO clarifies principles of International Law that would set global benchmarks for climate ambition and action, including by referencing obligations to protect human rights. An advisory opinion will not assign responsibility for climate loss and damage or result in compensation or reparations. The ICJ is not to be confused with the International Criminal Court (ICC), International Tribunal for the Law of the Sea (ITLOS) or other international legal mechanisms.
- Exciting: This is real! There will be a transparent and on-the-record vote by all UN member states in the General Assembly, so CSO messages can be tailored to national and regional contexts resulting in a sense of urgency, community momentum and positivity.

Messages that could resonate with governments:

- At the core of the CSO campaign lies the connection between human rights, climate change law, and future generations.

- States have a responsibility to protect people, human rights, natural resources and territorial integrity from harm. Climate change is an existential threat, which can only be addressed by reducing greenhouse gas emissions to an extent that limits warming to below 1.5°C. Thus, States have an obligation to make radical, sustainable emissions reductions while also ensuring climate justice.
- The UNFCCC is a powerful and important multilateral forum to reduce global emissions. An advisory opinion from the International Court of Justice will strengthen national ambition towards the goals of the Convention and Paris Agreement, including by placing human rights obligations at the centre of nationally determined contributions and climate change negotiations.
- Too often those countries that have contributed the least to climate change are the most vulnerable to the impacts, have limited adaptive capacities, are the most financially constrained and are bearing the brunt of the costs, especially in the Pacific, Caribbean, and Africa.
- The science is clear. There is a rapidly closing window of time in which nation states can act collectively to prevent further catastrophic impacts on vulnerable communities in the developing and developed world. An advisory opinion will help ensure science, not politics, drives states' timely fulfillment of state obligations to prevent harm and protect human rights.
- By taking the world's biggest problem to the world's highest court, states will gain legal clarity on their obligations to protect the rights of current and future generations. ICJ Advisory opinions hold tremendous moral authority to influence climate ambition from governments, businesses and other non-state actors.

Messages that relate to the UNFCCC processes and the Paris Agreement

- The Paris Agreement is an essential component of International Law to address climate change but it would benefit from legal clarification around the roles and obligations of states to implement it.
- All States, including Vanuatu, must increase ambition to limit global warming to below 1.5 °C, which will require rapid, deep and sustained reductions in global greenhouse gas emissions through commitments in our nationally determined contributions
- Science confirms that the window of opportunity to keep temperatures below 1.5°C is rapidly closing, global ambition on climate action cannot wait, nor be limited by short term political horizons. Scientific analysis suggests that even if the world meets all its NDC commitments and new pledges made at COP26, we are still on track for two degrees of warming. This current trajectory is condemning vulnerable nations around the world to climate catastrophe.

- An International Court of Justice Advisory Opinion (ICJAO) will support the Paris Agreement and seek to clarify international law on climate ambition, drawing upon the vast body of existing international law to resolve gaps and ambiguities, particularly in the areas of human rights, environmental protection and intergenerational equity.
- Since the Paris Agreement, climate change decisions have been taken by all major UN organs (except the ICJ) with no negative consequences for the UNFCCC, including at the UN General Assembly, the UN Security Council, the UN Secretary General and the UN Economic and Social Council. An opinion from the ICJ would do the same.
- The ICJ AO process is inclusive, collaborative and non-confrontational, intended to build trust and understanding among states to reach the common goals of the Paris Agreement
- The International Court of Justice has a long and rich history of strengthening and clarifying international law. Numerous advisory opinions have shaped and supported multilateral decisions in many areas such as on nuclear disarmament and decolonisation. It is a powerful tool that has not yet been deployed to address the world's biggest problem.
- The existential impacts of climate change on human lives and fundamental human rights necessitates legal clarity in the interpretation of international law including key climate treaties but from other legal instruments as well, such as human rights treaties, and from customary international law such as the well-established principles of due diligence, responsibility to prevent harm, and legal obligation to protect human rights. The ICJ can integrate these in its opinion on climate change.
- The International Court of Justice will be invited to clarify States' precise obligations to protect people against the climate crisis, and prevent massive human rights violations that would occur if all States had unfettered discretion in selecting and implementing their NDCs.
- Legal clarification will save the Paris Agreement, and help to enable the ambition mechanisms agreed to therein by all Parties of the UNFCCC

Messages that could resonate on human rights

- The climate crisis is a human rights crisis, with hundreds of millions of people in vulnerable countries already being denied their fundamental human rights. Rights to food, water, shelter, property, freedom of movement, livelihoods, health and a healthy environment are already being severely impacted.
- The International Court of Justice will examine how climate change inaction is affecting the human rights of people and provide legal clarity on how states should address it. An advisory opinion holds great legal weight and will encourage countries to look at climate change from a human rights perspective.

- In this climate catastrophe, one thing is clear, there needs to be transformational action and human rights can and must be part of the solution. The delusion that climate change is really a technical issue, or solely a political matter and human rights law has only a minor role to play must be abandoned.
- In providing clarity, the ICJ can answer rights questions such as what are the minimum actions that states must take in line with the latest scientific guidance, and whether human rights law gives rise to a certain threshold of action below which a state is in violation of its obligations.
- A human rights question highlights a moral high ground that we all stand on. It is a forward-looking approach that focuses on the future and it is therefore more likely to garner support. Also, it has greater transformative potential given that human rights are inalienable and are not based on the lowest common denominator decision-making demanded by consensus-based treaty processes.

Messages that could resonate with youth

- Youth are leading this campaign because they are fighting for their future. The science is clear, if the world doesn't get serious about stopping climate change this decade, our future will be destroyed. We are literally fighting for the survival of our lands, our oceans, our culture and the generations unborn.
- The youth's strongest ask to the Court is whether their governments have an obligation to hold the Earth in common with members of the present generation and with future generations.
- Youth everywhere are entitled to a right to equal access to justice and the right to remedy. Seeking clarification from the Court to secure their interests and their children's interests is therefore their right.
- We look to an intervention by the ICJ to endorse at the highest level our fundamental moral and legal rights; to live with dignity without fear of climate change denying us and our children of that freedom.
- In a nutshell, Youth are campaigning to the ICJ to encourage the governments to recognize and protect the rights of future generations to live on a healthy and stable planet.

Harmful Messaging

We also need to be conscious of messaging that could harm the campaign and make countries less likely to vote. Below are a few principles to be conscious of.

- An AO from the ICJ is not climate litigation. This is not an adversarial or confrontational case but rather a function of the Court that will provide a non-binding but highly regarded legal clarifications.

- No individual states will be targeted or singled out. No liability will be assigned. No damages will be sought. Therefore, all language focussing on loss and damage, compensation, restitution, reparation, and finance **MUST** be avoided.
- Calling out countries for their emissions failures is not helpful, rather the resulting AO will provide a positive opportunity for all States to transform their climate ambition.
- Addressing loss and damage is not a direct outcome of the ICJAO, nor is the campaign directed towards expanding climate finance.
- The ICJAO does not undermine, subvert, weaken, bypass or hinder the UNFCCC processes in any way, rather an ICJ AO will strengthen and guide achievement of Paris Agreement goals.

Key Questions

We will no doubt all get asked the same questions over and over again and we need to be able to answer them. Some of these questions could be:

- **What is the legal question?**

Answer: Although the legal question will be subjected to extensive thought and negotiations, the youth and CSO are wanting the Court to consider - Whether states under international law have an obligation to protect the rights of the current and future generations from the adverse effects of climate change?

5. Available Resources

What has been written?

- **PISFCC Campaign Brief**

The PISFCC Campaign Brief is a briefing paper on the ICJAO discussing the fundamentals, benefits, PISFCC legal question, risks and recommendations.

- **[WYCJ Legal Report](#)**

Available in [English](#), [French](#), and [Spanish](#).

The WYCJ legal report titled '*Human Rights in the Face of the climate crisis: A youth-led initiative to bring climate justice to the International Court of Justice*' explains the campaign to seek an advisory opinion from the ICJ as one of the ways of addressing the inequity arising from the climate crisis. It outlines in detail the background, motivation, and the many legal aspects of the campaign in a comprehensive and easily understandable manner.

The report is aimed to provide a deeper dive that discusses the different legal nuances of the campaign. The Report is currently

- **[Opinion Piece - Storian Blong Yumi - Open Global Rights](#)**

An opinion piece written by PISFCC campaigners that discusses how the campaign for an ICJAO started, why there is a need for an ICJAO, why the campaign needs to be pursued now, and what is the way forward.

- **[Opinion Piece - Pacific leaders must consider the advisory opinion - Fiji Times](#)**

An opinion piece part of the #EndorseTheAO campaign that sought to explain the campaign and provide a deeper understanding of the campaign. A key part of the opinion discussed how an ICJAO could benefit the Pacific.

What others have written?

- a. Professor Micheal Gerard - [LINK](#), [LINK](#)
- b. Professor Tim Stephen - [LINK](#)
- c. Dr. Penelope Ridings - [LINK](#)

Multimedia

- **[Power of the People Animation](#)**

Also available in [Spanish](#), [French](#), [Portuguese](#)

The Power of the People – is a short explainer animation on the ongoing campaign to seek an Advisory Opinion from the International Court of Justice (ICJ)

The animation was heavily inspired by the stark reality of the adverse effects of Climate Change on the basic Human Rights of children and youth from the Pacific Islands and other climate vulnerable countries.

- **[The World is an Island](#)**

Campaign launch video with a call to action

Interviews part of The World is an Island Video Series:

- [Solomon Yeo Interview](#)
- [Dr Morgan Wairiu Interview](#)
- [Cynthia Houniuhi Interview](#)
- [Cynthia Houniuhi Pigin Interview](#)

- **[The Islands are Calling Official Music Video](#)**

The Islands are Calling is a creative production by the Pacific Islands Students Fighting Climate Change. It is a song that seeks to raise the voice of the youth calling for action against the climate crisis while showing the wonders of Pacific life, heritage, art, nature, culture and tradition which are all sadly under threat by the climate crisis.

- **[#EndorseTheAO Video Advertisement](#)**

A 1-minute video advertisement that briefly explains the campaign and calls out to Pacific leaders to endorse the advisory opinion.