

# United Rising's **Position Paper** on State Responsibility for Environmental Harm

**Legal Standpoint and Advocacy  
for Accountability**



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# Table of Contents

I. Introduction: towards legal accountability for climate harms	1
II. Supporting legal framework for state responsibility	2
III. Gaps in enforcement	3
IV. Applying intergenerational justice and human security	3
V. United Rising's legal position	4
VI. Recommended legal interpretations and remedies	5
VII. Conclusion	7
References	8



# I. Introduction: towards legal accountability for climate harms

Climate change is widely recognised as “an unprecedented challenge of civilizational proportions” requiring an immediate legal and political response to safeguard the well-being of present and future generations. United Rising (UR) emphasises that states’ failure to address the climate crisis threatens the principles of human security and intergenerational justice. The current proceedings before the International Court of Justice (ICJ), seeking an Advisory Opinion on states’ obligations in relation to climate change, represent a pivotal opportunity: for the first time, based on the UN General Assembly’s (UNGA) Request, the ICJ will consider the scope of state responsibility for climate impacts on both ecosystems and “current and future generations.” At stake is whether international law will evolve to meet the demands of a warming world, or whether the burden of state inaction will continue to fall on the world’s most vulnerable populations.

United Rising is a youth-led organisation advocating for climate justice, intergenerational equity, and the protection of human rights in the face of planetary breakdown. UR works to elevate the voices of young people and marginalised communities in global policy processes, with a focus on ensuring that climate justice is both people-centred and future-oriented. Rooted in the values of intergenerational justice and human security, UR believes these principles must guide the interpretation of international legal obligations, especially in moments of systemic transition, such as the current ICJ Advisory Opinion. These values are not only foundational to UR’s mission, but also uniquely position the organisation to contribute to ongoing legal debates that will shape the contours of climate accountability for decades to come.

This Position Paper presents the outcome of extensive legal research conducted to examine the responsibilities of states under international law in relation to climate-related harms.<sup>1</sup> It addresses the central question: **In light of its foundational principles of intergenerational justice and human security, what legal position should United Rising adopt in its advocacy work on state responsibility for climate-related environmental harms, in light of the ongoing proceedings for an Advisory Opinion of the International Court of Justice?** Drawing on treaty law, customary norms, international jurisprudence, and legal doctrine, the Paper sets out UR’s legal position and strategic recommendations for the ICJ proceedings. Published in the midst of the Advisory

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<sup>1</sup> It is important to note that the research on which this Position Paper is based was conducted during the months of March, April, May, and early June 2025. Through this period, the expected date for the release of the ICJ Advisory Opinion on climate change has not been announced. Consequently, the analysis presented herein is based on the state of legal developments, arguments, and publicly available materials of that time. While the forthcoming Advisory Opinion may significantly influence the legal landscape, particularly regarding state obligations and responsibility for climate-related harms, it has not yet been published at the time this report was finalised. Therefore, any conclusions or recommendations reflect the legal context and scholarly discourse as it stood during the research period.

Opinion proceedings, this Paper aims to contribute substantively to the ongoing dialogue on the legal obligations of states, providing a youth-led perspective grounded in both normative values and legal precision. It begins by (II) outlining the legal framework that currently governs state responsibility for environmental harm. It then identifies (III) key enforcement gaps and explains why (IV) a people-centred and future-oriented interpretation of state duties is necessary. The paper proceeds by articulating (V) UR's legal position based on its foundational values and continues by (VI) calling for concrete remedies and legal consequences that reflect both the urgency of the crisis and the evolving standards of international law. The Paper ends with (VII) conclusion, summarising all arguments presented.

## II. Supporting legal framework for state responsibility

International law already imposes significant duties on states to combat climate harms. Treaties like the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement (PA) commit States to stabilise greenhouse-gas concentrations and to cooperate in mitigation and adaptation. Customary norms, reinforced by ICJ decisions, prohibit transboundary environmental damage and require due diligence. In the Corfu Channel case and the Nuclear Weapons Advisory Opinion, the Court reaffirmed the general no-harm rule: States must not allow activities in their territory to damage other States or the global environment. Similarly, in Certain Activities, the ICJ affirmed that due diligence is a customary duty: States can be held responsible for failing to prevent known environmental risks. These principles are directly applicable to climate change. The Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) further codifies the doctrine: any State act or omission violating an international obligation, whether treaty, customary, or *erga omnes*, triggers responsibility. In practice, climate obligations are increasingly treated as *erga omnes*, owed to the entire international community. For example, Article 48 of ARSIWA allows any State to invoke responsibility for breaches of climate duties, emphasising that harm to the atmosphere is a shared concern.

Landmark jurisprudence has gradually fleshed out these rules. Courts have confirmed that environmental treaties and duties have real effects. The ICJ, for instance, held in Pulp Mills that conducting an Environmental Impact Assessment is part of customary law, underscoring States' obligation to prevent harm. At the national level, the Dutch Urgenda case treated greenhouse-gas limits as a legal duty to protect citizens' lives and well-being. Similarly, the UN Human Rights Committee found that Australia violated Torres Strait Islanders' rights to culture, family and home by failing to curb climate change. These and other decisions, such as La Rose in Canada, illustrate how courts are recognising that climate inaction endangers fundamental rights. Together, treaty law, custom and case law

establish that States have a duty to prevent dangerous climate change, to reduce emissions, and to cooperate with others.

### III. Gaps in enforcement

Despite clear obligations, enforcement remains weak. Notably, even binding instruments lack punitive mechanisms. For example, Article 13 of the PA explicitly forbids enforcement actions against non-compliance; implementation is left to domestic follow-through.

States can miss reporting or set targets with impunity. Likewise, the ARSIWA framework provides no standing international tribunal: responsibility arises only when a State chooses to bring a claim. Under Article 33(2) of ARSIWA, individuals and groups may have rights to a healthy environment, but only States can invoke another State's responsibility. In practice, this bars victims from suing emitters directly. Individuals, Indigenous peoples, local communities, and non-governmental organisations (NGOs) have no direct access to international relief under state-responsibility law.

These gaps affect the most vulnerable the hardest. Small Island Developing States (SIDS) and Indigenous communities face severe climate harms, but lack channels to hold large emitters to account. SIDS, NGOs, and youth advocates face several difficulties when trying to establish state responsibility; therefore, they have no legal standing to file climate claims internationally. Consequently, many initiatives, like the Commission of SIDS and International Law, have formed outside of traditional mechanisms to seek climate justice.

In summary, the current system is state-centric and short-termist: it excludes non-state claimants and largely ignores future generations. Procedural barriers and a lack of enforcement mean there is minimal deterrence for States that fail to honour their climate commitments. Yet, legal enforcement is essential to incentivise action and secure remedies for those harmed.

### IV. Applying intergenerational justice and human security

UR's foundational values, intergenerational justice and human security, provide the normative lens to strengthen state responsibility.

Intergenerational justice demands that States account for the rights of people not yet born. The ICJ has emphasised that the environment is "not an abstraction but part of the living space of succeeding generations". This implies a general duty to consider future lives: continuing to emit greenhouse gases today causes harm to unborn persons and violates their rights to a stable climate. UR insists this duty is binding, not aspirational.

Likewise, human security shifts focus onto individuals and communities. Climate change threatens basic aspects of life, health, food, water, shelter, culture, and the law must protect these. UR urges the Court to interpret climate obligations through this people-centred lens. For example, the Dutch *Urgenda* case framed emission limits as a positive duty to safeguard citizens' lives, an embodiment of human security in law. Similarly, the *Torres Strait Islanders* case treated Australia's climate inaction as a violation of Islanders' rights to culture and family.

These precedents show how embedding intergenerational and security principles yields concrete obligations: States owe a "duty of care" to all, present and future. UR contends that the ICJ should make this explicit, affirming that States must act now to avert foreseeable harms to future people and to protect human lives.

## **V. United Rising's legal position**

Grounded in its commitment to intergenerational equity and human security, UR's legal position holds that states' climate obligations are immediate, enforceable duties under international law. To advance a credible, values-based, and strategically effective legal stance, UR's position is grounded in three interrelated criteria: (1) legal grounding in treaty and customary law; (2) normative coherence with emerging legal standards; and (3) applicability in advocacy, particularly in relation to the ICJ's Advisory Opinion.

### **V. I. Intergenerational justice as a binding legal principle**

UR argues that states' obligations to future generations are already embedded in international law and must be treated as binding. The UNFCCC explicitly calls for protection of the climate system "for the benefit of present and future generations". Similarly, the ICJ in its *Nuclear Weapons Advisory Opinion* recognised the environment as part of the "living space" of generations unborn. Likewise, the *Urgenda* case confirmed that failure to prevent climate harms constitutes a violation of the right to life and family integrity.

UR calls on the Court to affirm that these commitments are not aspirational but form part of states' due diligence obligations. Climate harm that foreseeably affects future generations must be treated as legally relevant and remediable. The Advisory Opinion needs to confirm that intergenerational justice operates as a guiding principle in interpreting the scope of environmental, human rights, and state responsibility obligations.

## **V. II. Human security as a framework for interpreting obligations**

UR further contends that human security offers both a legally sound and morally imperative lens through which states' climate obligations need to be interpreted. This concept, recognised by the UNGA and increasingly invoked in international law, shifts the focus from state sovereignty to the protection of individuals' rights to life, health, food, water, and culture, each of which is directly endangered by the climate crisis. This framing also supports arguments about responsibility: if a state's emissions foreseeably harm certain communities, as in the Torres Strait Islanders case, that state violates its due diligence obligations to protect individuals under its jurisdiction.

UR urges the Court to recognise that the right to a safe climate is foundational to the enjoyment of all other rights, and that climate action must be assessed not only by aggregate emissions, but by its impact on vulnerable populations.

## **V. III. Climate obligations are *erga omnes* duties**

UR emphasises that climate protection is owed to the international community as a whole. Consistent with Article 48 of ARSIWA, UR asserts that any State may raise a breach of climate duties, and that courts should be open to collective enforcement, for example, by coalitions of States or international bodies.

In sum, UR's position asserts that intergenerational justice and human security are not merely guiding ideals, but should be treated as general legal principles shaping states' duties.

# **VI. Recommended legal interpretations and remedies**

Based on the above analysis, UR calls on the ICJ to clarify and reinforce specific legal consequences for States' climate conduct.

## **VI. I. Cessation of wrongful acts**

The Advisory Opinion must confirm that any State activity, or omission, contributing to dangerous climate change is a continuing wrongful act. Under general international law, a State causing transboundary harm must cease such activities immediately. UR argues that failure to meet mitigation or adaptation obligations, for example, under the PA, constitutes a continuing breach. Thus, the Court should articulate that States must halt harmful emissions and policies that violate their climate duties.

## **VI. II. Full reparation for damages**

UR insists that violations of climate obligations must trigger full reparative measures. As ARSIWA provides, a wrongful State act requires the duty “to make full reparation”. In climate cases, reparation should encompass multiple forms: (I) compensation to those suffering loss and damage; (II) restoration of damaged ecosystems, where feasible; and (III) assistance, without differentiation of financial, technical, or humanitarian aid, to affected communities to rebuild and adapt. UR argues that the Court should explicitly recognise these remedies. Victims of climate harm must be entitled to support from the responsible State under international law.

## **VI. III. Procedural obligations**

The Opinion must stress that States owe procedural duties to their people in climate matters. UR highlights that treaties like the PA and UNFCCC foresee transparency and public participation, through reporting, emissions inventories, and environmental impact assessments. The Court needs to clarify that these entail legal obligations: (I) affected populations must have opportunities to participate in climate policymaking; and (II) access to information on emissions and plans. This would empower civil society and ensure accountability.

## **VI. IV. Substantive obligations**

The Court must make it clear that the core commitments of the UNFCCC and PA, to mitigate greenhouse gas emissions and build resilience, impose binding duties on States. UR urges the Court to articulate at least minimum benchmarks: for example, developed countries should be held to accelerated reduction targets in line with equity. The Court should affirm that States must follow through on their pledges and progressively strengthen them, with an international duty to cooperate towards these substantive goals.

## **VI. V. Human rights and security duties**

Building on the UNGA’s human-rights framing, UR insists that the Court link climate duties to protecting fundamental rights. For example, the Opinion should recognise that states breach obligations when climate damage impairs the right to life, health, food, water or culture. This human security lens means that courts and governments must consider climate impacts on migrants, communities, and ecosystems as part of their duty of care.

In short, UR advocates that the Advisory Opinion enshrine climate accountability as a classic case of state responsibility: States must cease harmful emissions, compensate and assist victims, and guarantee non-repetition. By translating UR’s values into legal terms, these measures would turn moral imperatives into enforceable rights and duties.



## VII. Conclusion

The climate crisis demands not only political will, but legal clarity. As the ICJ considers its Advisory Opinion on states' obligations related to climate change and human rights, this is a decisive moment to define the scope of international legal responsibility in a way that aligns with both scientific urgency and the lived realities of affected communities. UR calls on the Court to affirm that states hold binding obligations under international law to prevent, mitigate, and remedy climate harms, obligations owed not only to other states, but also to individuals, communities, and generations yet unborn.

This Position Paper has set out a legal analysis developed during the Advisory Opinion process, aiming to inform and influence the interpretation of state responsibility at this critical juncture. It has been argued that intergenerational justice and human security are not merely aspirational ideals, but established legal principles that must shape the interpretation and application of international climate obligations. These values are embedded in treaty law, supported by customary norms, and increasingly recognised in judicial reasoning across jurisdictions. The Court must treat them as actionable standards capable of guiding concrete legal duties and state accountability.

Moreover, the Advisory Opinion must do more than restate general obligations. It must clarify the legal consequences of breaches: from the cessation of wrongful conduct and reparations for loss and damage, to procedural and substantive duties designed to prevent recurrence. The tools for redress already exist in international law; what is needed now is authoritative interpretation. A clear articulation of legal consequences will help close the persistent gap between international commitments and enforcement; between principle and practice.

UR's legal position represents a generation that demands climate justice not as a future goal, but as a present legal imperative. It is grounded in law, shaped by values, and oriented toward action. We urge the Court to rise to the occasion and deliver the legal clarity required to ensure that state conduct aligns with the rights, dignity, and security of all, now and for generations to come.

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