doi:10.1017/amp.2023.84

# THE REACH AND LIMITS OF INTERNATIONAL COURTS AND TRIBUNALS IN RESOLVING THE CLIMATE CRISIS: ADVISORY OPINIONS BEFORE THE ICJ, ITLOS, AND IACTHR

This panel was convened at 9:00 a.m. on Friday, March 31, 2023, by its moderator, Nicola Peart of Three Crowns LLP. Speakers attending virtually via pre-recorded interview and in person on the panel included: Dr. Margaretha Wewerinke-Singh of the University of Amsterdam; Julian Aguon of Blue Ocean Law; Nicole Anne Ponce of the Normandy Chair for Peace and the World's Youth for Climate Justice Coalition; Catalina Fernández Carter of the Chilean Ministry of Foreign Affairs; and Professor Payam Akhavan of Massey College, University of Toronto.

## Remarks by Nicola Peart*

Welcome to this panel on "The Reach and Limits of International Courts and Tribunals in Resolving the Climate Crisis." I have the pleasure of moderating this panel on a timely topic of international advisory opinions on climate change before the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), and the Inter-American Court of Human Rights (IACtHR). The concurrence of related advisory opinion requests before these three international courts and tribunals is unusual, and the significance of these proceedings is heightened by the seriousness of the issues they raise: the obligations of states to address the causes and impacts of climate change for current and future generations.

Our panel includes practitioners and scholars that are at the forefront of these initiatives: lawyers that are advising and representing the states bringing these requests, as well as lawyers involved in galvanizing support for them. In order of appearance, we will hear from Dr. Margaretha Wewerinke-Singh, Associate Professor of Sustainability Law, University of Amsterdam, and Julian Aguon, Founder and Principal of Blue Ocean Law, both of whom act as lead counsel for the Republic of Vanuatu—the state that sponsored the proposal for an ICJ advisory opinion on the obligations of states under international law to address the causes and impacts of climate change. Margaretha and Julian have been working for several years to support young people, Indigenous communities, and Small Island Developing States to bring a request for an advisory opinion from the International Court, and they were closely involved in the drafting of the United Nations General Assembly resolution that was adopted by consensus last week, setting out questions for the ICJ to address. We will hear next from Nicole Ponce, one of our recognized New Voices at this year's Annual Meeting, a lawyer from the Philippines, and a member of the youth coalition that has spurred momentum behind the broad state support for an ICJ advisory opinion on climate change. Professor Payam Akhavan of Massey College, University of Toronto, will then turn to discussing the initiative of the Commission of Small Island States on Climate Change and International Law, or "COSIS," to seek an advisory opinion from ITLOS

* Senior Associate, Three Crowns LLP. I would like to thank my colleague, Julia Sherman, who played an integral role in organizing and convening the panel. I would also like to thank Dr. Massimo Lando and Professor Freya Baetens, who stepped in to fill a last-minute vacancy on this panel and field questions from the audience.

concerning the obligations of states parties to the UN Convention on the Law of the Sea to address the causes and impacts of climate change. Professor Akhavan, along with other colleagues, advised COSIS on the questions put to ITLOS and represents COSIS in those proceedings, which are already underway. We will conclude with remarks from Catalina Fernández Carter, Head of Department at the Universal Human Rights System of the Chilean Ministry of Foreign Affairs. Catalina and her colleagues in the Chilean government, as well as her counterparts in the government of Colombia, authored the questions that have been submitted to the Inter-American Court of Human Rights concerning states obligations under the American Convention to address the causes and impacts —particularly, the human rights impacts—of climate change.

The issues raised by any one of these proceedings would be too great to comprehensively address on a single panel, let alone a panel such as this one discussing all three proceedings, as well as the fact of their concurrent timing, potential interaction, and collective implications. However, what we do hope to cover are some introductory points, how each initiative came about, certain unique and distinguishing features of each proceeding, the possibilities of their complementarity, and what we might expect over the next months and years as these proceedings unfold. These are unprecedented proceedings, and in keeping with the theme of this year's Annual Meeting, a central issue that our panelists will address is the reach and limits of these international courts and tribunals in resolving the climate crisis.

## Remarks by Dr. Margaretha Wewerinke-Singh* and Julian Aguon**

On March 29, 2023, a landmark event occurred as the United Nations General Assembly (UNGA) adopted by consensus a resolution requesting an advisory opinion from the International Court of Justice (ICJ) on climate change. This development, the culmination of a campaign initiated three years ago on the University of the South Pacific's Vanuatu campus, stands as a significant diplomatic victory for the government of Vanuatu, and a revitalizing moment for multilateralism.

This consensus-based adoption carries profound significance, marking an unprecedented moment in the history of international law. Never before has the UNGA requested an ICJ advisory opinion through a resolution adopted by consensus. This consensus underscores the universal recognition among states of the seriousness of the climate crisis and the importance of multilateral cooperation in addressing it.

The power of an ICJ advisory opinion lies in its capacity to bring clarity to the complex web of legal obligations states hold concerning climate change. As the text of the resolution makes clear, addressing climate change requires transcending the boundaries of individual treaties such as the United Nations Framework Convention on Climate Change (UNFCCC) or the Paris Agreement, and considering the broader spectrum of international law. The UNGA's request seeks clarity on the normative content of this broad spectrum of relevant obligations and the legal consequences for states that have failed to meet them, causing significant harm to the climate system in the process.

For the first time in history, the ICJ has the opportunity to delineate the obligations of states toward the protection of the climate system and the rights of both present and future generations from climate-induced harms. An advisory opinion could recognize that these harms are disproportionately borne by those least responsible—Small Island Developing States and other states particularly vulnerable due to geographical circumstance or historical colonization.

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A progressive advisory opinion could integrate human rights considerations with climate responsibilities, operationalizing the call set forth in the Paris Agreement for states to respect and promote human rights in their climate actions. This could establish a robust legal nexus between climate change and human rights, enhancing the normative force of international law in addressing climate change.

Furthermore, such an advisory opinion could drive a paradigm shift in the global approach toward climate action. Current Nationally Determined Contributions (NDCs) fall dramatically short of what is needed to achieve the Paris Agreement's goal of limiting global temperature rise to well below 2°C. An ICJ advisory opinion could underscore that raising NDC ambition is not merely discretionary, but a matter of legal obligation under international law, thereby motivating states to adopt more aggressive climate action.

The urgency of this action is underscored by the latest report of the Intergovernmental Panel on Climate Change (IPCC), indicating a greater than 50 percent chance of global temperatures reaching or surpassing 1.5°C by 2040. For Pacific peoples, such a scenario equates to a death sentence. Yet, catastrophe is not inevitable. The report's authors stress that limiting global warming to 1.5°C is still technically achievable, provided states commit to drastic reductions in greenhouse gas emissions.

An ICJ advisory opinion can play a crucial role in this critical juncture by providing an objective benchmark to evaluate states' compliance with their climate obligations. It could guide states grappling with the need for greater ambition in climate mitigation, adaptation, and financial support.

Vanuatu's success in leading this initiative is a testament to its resilience and determination. Despite being one of the world's most climate-vulnerable states, Vanuatu is spearheading efforts toward an ICJ advisory opinion on climate change and advocating for a fossil fuel non-proliferation treaty aligned with the 1.5°C goal. This small island state's commitment to solidarity and collective action is a powerful testament to its emancipatory vision.

As we navigate this tumultuous decade, perhaps the last chance to avert climate catastrophe, Vanuatu's remarkable success brings us a step closer to a potentially transformative legal framework. Vanuatu, now flanked by the rest of the world, has posed an epic question to the ICJ: a question that asks the court to apply the entirety of international law to the conduct that has driven our planet to the brink of catastrophe.

This consensus-backed request represents a beacon of hope for multilateralism and collective action. It embodies the potential of international law to not just interpret but also guide the global response to climate change. If the ICJ responds positively and substantively, its advisory opinion could shape the course of climate action, uphold climate justice, and catalyze a global effort that aligns with scientific imperatives and the principles of fairness and equity.

In the face of an existential crisis, the unanimous support for this request signifies the global community's shared recognition of the urgency and interconnectedness of climate change and the necessity of a collective, legally grounded response. This, in itself, is a triumph for Vanuatu, the Pacific, and the world. With the ICJ's forthcoming advisory opinion, we may be on the cusp of turning the tide toward a more equitable and sustainable future.

## Remarks by Nicole Ann Ponce*

On March 29, 2023, the United Nations General Assembly (UNGA) adopted by consensus a historic resolution requesting an Advisory Opinion from the International Court of Justice (ICJ) on the obligations of states in relation to climate change.

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This milestone signifies an increasing awareness of climate justice, and the potential relevance of obligations that states hold under international law to address climate change. This initiative has been driven by grassroots activists, particularly the Pacific Islands Students Fighting Climate Change who started their campaign in 2019, and later on amplified by the World's Youth for Climate Justice, with the support today of over 1,700 civil society groups.

Young people have been at the heart of the public campaign to secure the UNGA's support for an advisory opinion from the ICJ, but they have also been closely involved in legal strategy and planning. For example, young people were involved in finalizing the language reflected in the questions put to the Court, ensuring that the questions included concepts such as intergenerational equity and climate justice. The world's youth today and future generations have a vested interest in achieving climate justice, as we will bear the long-term consequences of environmental degradation. Through this advisory opinion, we seek to secure our right to a livable and sustainable future, by holding accountable those responsible for climate change and advocating for effective mitigation and adaptation measures.

It has also been important to us to ensure the meaningful participation of Indigenous communities and Small Island States. Indigenous communities, who often have deep connections to their lands and rely on natural resources for their livelihoods, are disproportionately affected by climate change. The campaign for an advisory opinion from the ICJ recognizes their unique perspectives, traditional knowledge, and the need to ensure their rights are protected, respecting their cultural heritage and promoting sustainable practices. Similarly, Small Island States face existential threats due to rising sea levels, extreme weather events, and loss of biodiversity. Their vulnerability emphasizes the urgency for legal remedies to address climate-related challenges. The advisory opinion offers an avenue to amplify their voices, strengthen their legal claims, and advocate for necessary support and compensation to safeguard their communities.

We are excited about the involvement of young people in the next phase of this campaign. We want young people to be able to participate in the ICJ proceedings, and the World's Youth for Climate Justice have prepared a handbook to help encourage young people to reach out to their governments to inform them about the perspectives of young people. In addition, the youth, along with civil society, will continue to play a crucial role in shaping public opinion, mobilizing communities, and influencing policy decisions in parallel with the legal proceedings.

The request for an advisory opinion from the world's highest court demonstrates that young people and civil society can utilize international law as a tool to strengthen their advocacy efforts and raise awareness about the world's most pressing problem. I am hopeful that the Court's opinion will contribute to driving meaningful, systemic and institutionalized action to address climate change and protect human rights.

But even aside from the final opinion from the Court, the journey to the General Assembly, and the upcoming proceedings before the Court, are meaningful in and of themselves. Participation in these proceedings is important for ensuring equitable access to justice. And the spotlight on the legal issues raised by the questions put to the Court provides renewed focus on the need to examine relationship between climate change and human rights and to foster and promote dialogue and cooperation among states, international organizations, and affected communities.

These are unprecedented times, and by seeking an advisory opinion, the youth are given agency to actively engage with international law in our demand for climate justice. Through this process, we strive to raise awareness, catalyze policy changes and shape a more just and sustainable future for all, ensuring that the rights and interests of young people, future generations, civil society, indigenous people, and Small Island States are safeguarded.

## Remarks of Professor Payam Akhavan*

The emerging leadership of Small Island States in climate justice litigation is among the most remarkable developments in the recent history of international law. Small Island States are the canary in the coal-mine of catastrophic climate change. They are especially vulnerable to the impact of greenhouse gas emissions, such as ocean acidification and extreme weather events. Some even face a future in which their entire land territory will become submerged as a result of sea-level rise. For these nations, the failure of the major polluters to genuinely confront climate change is an existential threat. They have turned to international law with a sense of urgency, to shift the conversation from vague and discretionary commitments to specific and legally binding obligations.

It was in the context of frustration with insufficient progress in prolonged climate change negotiations under the 1992 United Nations Framework Convention on Climate Change (UNFCCC) that on October 31, 2021, on the eve of COP26 in Glasgow, the prime ministers of Antigua and Barbuda and Tuvalu concluded the Agreement for the Establishment of the Commission of Small Island States on Climate Change and International Law (Agreement).[1] The Agreement was duly registered[2] with and published[3] by the UN Secretariat pursuant to Article 102 of the UN Charter, and opened for accession by members of the Alliance of Small Island States (AOSIS): thus far, Antigua and Barbuda, Tuvalu, Palau, Niue, Vanuatu, Saint Lucia, Saint Vincent and the Grenadines, and Saint Kitts and Nevis have become parties.[4] The conclusion of a bilateral agreement that is transformed with subsequent accessions into a multilateral agreement was a model that allowed for expeditious establishment of an inclusive international organization for collective legal action by similarly affected States.

The mandate of the Commission (OSIS) is "to promote and contribute to the definition, implementation, and progressive development of rules and principles of international law concerning climate change." In fulfilment of this mandate, it has appointed a diverse and gender-balanced fourteen-member Committee of Legal Experts. In view of the fundamental importance of oceans as sinks and reservoirs of greenhouse gases—with the absorption of more than 90 percent of excess heat generated by global warming by the oceans—a notable provision of the Agreement is Article 2, paragraph 2, authorizing COSIS to request advisory opinions from the International Tribunal for the Law of the Sea (ITLOS), on the basis of its specialized jurisdiction under the 1982 UN Convention on the Law of the Sea (UNCLOS), including Part XII on the protection and preservation of the marine environment. Unlike Article 96 of the UN Charter which requires the General Assembly or other UN organs or specialized agencies to request advisory opinions from the ICJ, Article 21 of the ITLOS Statute and Article 138, paragraph 1, of its Rules provides that: "The Tribunal may give an advisory opinion on a legal question if an international agreement

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[1] David Freestone, Richard Barnes & Payam Akhavan, *Small Island States: Agreement for the Establishment of the Commission of Small Island States on Climate Change and International Law (COSIS)*, 37 Int'l J. Marine & Coastal L. 1, 166–78 (2022).

[2] Certificate of Registration of the Agreement for the Establishment on Climate Change and International Law, Edinburgh, 31 October 2021 (Feb. 3, 2022) *at* https://treaties.un.org/doc/Treaties/2021/10/20211031%2001-22%20PM/Other%20Documents/COR-Reg-56940-Sr-71092.pdf.

[3] Agreement for the Establishment of the Commission of Small Island States on Climate Change and International Law, Oct. 31, 2021, *at* https://treaties.un.org/doc/Publication/UNTS/No%20Volume/56940/Part/I-56940-08000002805c2ace.pdf.

[4] *See* UN Treaty Series, Agreement for the Establishment of the Commission of Small Island States on Climate Change and International Law, *at* https://treaties.un.org/Pages/showDetails.aspx?objid=08000002805c2ace (last visited June 16, 2023).

related to the purposes of the Convention specifically provides for the submission to the Tribunal of a request for such an opinion." In Request for an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC), the Tribunal confirmed that "Article 21 and the 'other agreement' conferring jurisdiction on the Tribunal are interconnected and constitute the substantive legal basis of the advisory jurisdiction of the Tribunal."[5]

It was on this basis that on December 12, 2022, the Commission requested an advisory opinion on climate change from ITLOS in respect of the marine environment,[6] based on a Decision of its members from August 26, 2022.[7] Unlike ICJ advisory opinions which require resolutions of UN organs or specialized agencies, the legal questions put to ITLOS by the Commission were not the subject of extensive negotiations, or otherwise dependent on the political will of other states to make such a request. Nonetheless, the ITLOS proceedings are open to all UNCLOS states parties as well as relevant international organizations, and it is anticipated that the resulting jurisprudence will be shaped by numerous participants. In respect of the substance of the legal questions, it is well-established as a general principle, as noted by Professor Alan Boyle, that UNCLOS Part XII "requires states to take the measures necessary to protect the marine environment from the harmful effects of anthropogenic climate change[.]"[8] The specific obligations of UNCLOS states parties however, cannot be meaningfully elaborated without proper consideration of scientific evidence concerning the impact of greenhouse gas emissions on the oceans. Accordingly, the Commission has adopted a science-based approach to legal interpretation in order to ensure that the resulting ITLOS advisory opinion provides meaningful guidance to states in respect of their obligations. It is notable that consistent with its specialized jurisdiction under UNCLOS, ITLOS has demonstrated receptivity to technical and scientific evidence. This is crucial in the context of climate change where science and law are inextricably linked. As former ITLOS President, Judge Jin-Hyun Paik has observed, the determination of harm to the marine environment "would not be possible without scientific fact-finding and assessment."[9]

It is notable that following the Commission's request to ITLOS on December 12, 2022, Chile and Colombia requested an advisory opinion on climate change from the Inter-American Court by consensus of Human Rights on January 9, 2023.[10] This was followed on March 29, 2023 by the adoption of General Assembly Resolution A/RES/77/276 requesting an advisory opinion from the ICJ.[11] Small Island States such as Vanuatu and Antigua and Barbuda that were part of the "core group" supporting the resolution are also members of COSIS. Furthermore, COSIS has supported and will participate in these other proceedings, despite the misconception among some that it is

[5] Request for an Advisory Opinion Submitted by the Sub-regional Fisheries Commission, Case No. 21, Advisory Opinion, 2015 ITLOS Rep. 4, para. 58 (Apr. 2).

[6] Letter from the Commission of Small Island States on Climate Change and International Law to the Registrar of the International Tribunal for the Law of the Sea (Dec. 12, 2022), *at* https://www.itlos.org/fileadmin/itlos/documents/cases/31/Request_for_Advisory_Opinion_COSIS_12.12.22.pdf.

[7] Decisions of the Third Meeting of the Commission of Small Island States on Climate Change and International Law, Commission of Small Island States on Climate Change and International Law (Aug. 26, 2022), *at* https://www.itlos.org/fileadmin/itlos/documents/cases/31/COSIS_Decision_with_note_by_the_Registry.pdf.

[8] Alan Boyle, *Protecting the Marine Environment from Climate Change: The LOSC Part XII Regime*, *in* THE LAW OF THE SEA AND CLIMATE CHANGE: SOLUTIONS AND CONSTRAINTS 84 (Elise Johansen et al. eds., 2020).

[9] Judge Jin-Hyun Paik, President of the International Tribunal for the Law of the Sea, Keynote Speech, Disputes Involving Scientific and Technical Matters and ITLOS (Aug. 22, 2018), *at* https://www.itlos.org/fileadmin/itlos/documents/statements_of_president/paik/Iceland_Conference_President_Keynote_Speech_Final_22August2018.pdf.

[10] Request for an Advisory Opinion on the Climate Emergency and Human Rights Submitted to the Inter-American Court of Human Rights by the Republic of Colombia and the Republic of Chile (Jan. 9, 2023), *at* https://www.corteidh.or.cr/docs/opiniones/soc_1_2023_en.pdf.

[11] ICJ Press Release, The General Assembly of the United Nations Requests an Advisory Opinion from the Court on the Obligations of States in Respect of Climate Change (Apr. 13, 2023), *at* https://www.icj-cij.org/sites/default/files/case-related/187/187-20230419-PRE-01-00-EN.pdf.

exclusively focused on ITLOS. There is also an initiative to request an advisory opinion on climate change from the African Court of Human and Peoples' Rights. There will be significant overlap between these proceedings, giving rise to concerns about harmonization and cohesion of jurisprudence among different international courts and tribunals. A jurisprudential dialogue and cross-fertilization among jurisdictions would help avoid the fragmentation of this important and still emerging area of international law.

It is remarkable that these ground-breaking initiatives have emerged from Small Island States; practitioners of planetary politics at the periphery of power realities in an increasingly fragile international order that has failed to subordinate short-term narrow goals in favor of global common interests. While the impact of this proliferating climate justice litigation remains far from clear—whether in terms of jurisprudence or the potential mobilization of civil society—it may well prove to be a turning point in our conception of international law. It is becoming increasingly apparent that whatever we say about state consent as the source of norms, the laws of nature will ultimately prevail. As Indigenous peoples might remind us, Mother Earth has the most formidable means of enforcement. Instead of lofty aspirations, we must reimagine global norms as the collective basis for the survival of humankind. As Arnold Toynbee famously said, "civilizations die by suicide, not murder."

## Remarks of Catalina Fernández Carter*

Chile and Colombia's request for an advisory opinion to the Inter-American Court of Human Rights (IACtHR) was envisaged as a complementary initiative to the parallel requests made to the International Tribunal for the Law of the Sea (ITLOS) and the International Court of Justice (ICJ), under the premise that a human rights approach to the climate emergency could provide States another tool to seek for timely, fair, equitable, and sustainable solutions.

The human rights dimension of the environmental crisis, which impacts the right to life, integrity, health, and housing, among others, is evident. Firstly, it does not affect all individuals in the same way: it has a devastating and differentiated impact on certain groups in vulnerable situations, including children, Indigenous peoples, peasant communities, and women, among others. At the same time, elements such as geography, climatic and socioeconomic conditions, and infrastructure impact the way in which communities experience the consequences of the emergency. This has resulted in several countries in the Americas region being significantly affected, in a way that is not proportional to these communities' contribution to the climate emergency.

Secondly, the request was made to a tribunal that has already developed an interesting approach to these topics, stating that the American Convention of Human Rights (ACHR) incorporates the right to a healthy environment,[1] even though such a right is not explicitly included in the treaty. Notably, the Court has also stated that this right protects the elements of the environment (forests, sea, rivers, among others) as valuable interests of their own, even lacking evidence of their impact on human beings,[2] opening the door to questions on Nature's own rights. At the same time, the IACtHR has also stated that as long as a treaty concerning human rights protection applies to an American state, then the Court can interpret it, even if other parties to that treaty are not members

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[1] Advisory Opinion OC-23/17, Requested by the Republic of Colombia: The Environment and Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity: Interpretation and Scope of Articles 4(1) and 5(1) in Relation to Articles 1(1) and 2 of the American Convention on Human Rights), Inter-Am. Ct. H.R. (ser. A) No. 23, paras. 57, 62–63 (Nov. 15, 2017).

[2] *Id*., para. 62.

of the Inter-American system.[3] That is why the request draws upon treaties other than the ACHR, which may allow the Court to conduct a broader analysis.

Thirdly, using the language of human rights to deal with this crisis might be helpful, considering the mobilizing effect and the possibilities to improve the mechanisms for accountability. Indeed, the judgments and advisory opinions of the Inter-American Court have a substantial impact in national jurisdictions in Latin America, most notably in Chile and Colombia: they are invoked by lawyers, used by the Supreme and Constitutional Courts, and mentioned as justification to introduce bills, propose amendments, etc. This is partly because the Inter-American Court has explicitly stated that countries must consider the interpretation developed by the Court when applying the provisions of the ACHR (the so-called "conventionality control").[4] In this sense, international law's lack of enforcement mechanisms can be—in some way—remediated when international law is incorporated into national law, providing access to domestic law enforcement mechanisms.

On the other hand, some peculiarities of the IACtHR proceedings might be worth mentioning, especially when compared to the parallel proceedings before the ITLOS and the ICJ. Notably, this is a tribunal focused on victims. Although the IACtHR has jurisdiction to decide on interstate disputes, to this date, the Court has never done so: all the contentious cases have been brought by the Inter-American Commission and have dealt with direct violations committed against individuals. Thus, the Court is used to dealing with victims who have direct standing before it. This has undoubtedly impacted the practice and idiosyncrasy of the Court and the way it addresses the different questions posed.

The IACtHR has also opened the doors for submissions by civil society, academia, activists, and the scientific community. The proliferation of *amici curiae* in these proceedings allows the Court to be more openly available to different actors from all over the world, that might want to give their insights on the different questions. This also permits countries such as Chile and Colombia to be more ambitious in the questions presented, considering that this debate will likely be open to a broader community in a manner that will not be possible for the proceedings before the ICJ or the ITLOS.

One crucial question is how the IACtHR proceedings might interact with the parallel proceedings before the ITLOS and the ICJ. There is an inherent risk of contradictions and fragmentation that cannot be ignored, and there is no absolute way to prevent it. Notably, Pierre d'Argent argued that the proliferation of international courts "might have a bearing on the propriety to exercise advisory jurisdiction over questions of international law,"[5] for instance, if the request for an advisory opinion could fall under the jurisdiction of another tribunal. Although I do not think this should (or will) prevent any of the aforementioned courts from answering the request, it does remind us of the importance of dialogue between them. The courts must engage with each other to ensure international law is interpreted to allow for complementation, not competition between them.

Finally, it might be worth examining the likely impact of the IACtHR advisory opinion. On the one hand, all the decisions might contribute to obtaining more certainty on the applicable rules, which sometimes seem vague and insufficient.

At the same time, the opinion will give communities in the region valuable tools to demand changes, considering the mobilizing effect of human rights that was previously mentioned.

[3] Advisory Opinion OC-1/82, "Other Treaties" Subject to the Advisory Function of the Court (Art. 64 American Convention on Human Rights), Inter-Am. Ct. H.R. (ser. A) No. 1, para. 48 (Sept. 24, 1982).

[4] Almonacid Arellano et al. v. Chile, Inter-Am. Ct. H.R. (ser. C) No. 154, para. 124 (Sept. 26, 2006); Advisory Opinion OC-1/82, *supra* note 3, para. 48.

[5] Pierre d'Argent, *Advisory Opinions, Article 65*, *in* THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE: A COMMENTARY (Andreas Zimmermann et al. eds., 2019).

However, we cannot ignore that Latin American countries have a limited role in creating—and resolving—the crisis. Even if Chile or Colombia reached carbon neutrality today, such a measure would have an almost null impact in the broader picture.

However, there are other measures to be taken, even by small countries, concerning adaptation and building communities that are resilient to the climate emergency. On her intervention after the adoption of the Vanuatu resolution, Chile's permanent representative to the UN noted that adaptation is not an option but an urgent necessity. Adaptation is critical to the long-term global response to climate change to protect people, livelihoods, and ecosystems. This is something that small and medium countries need to start doing, in cooperation with their neighbors that are facing equivalent challenges. And hopefully, the IACtHR will assist countries in implementing these measures.