

Keswick Reminder 01.08.25: NfWW No.92 From the local to the global

In 2019 environmental law lecturer, Dr. Justin Rose, at the Vanuatu campus of the University of the South Pacific, set his class an extracurricular project: to 'discuss the most ambitious and productive action Pacific Island countries could initiate within international law to address climate change'. With rapidly rising sea-levels, the islands of the South Pacific are on the frontline of climate change. So this was no abstract exercise.

An early idea the students considered was to ask The Hague-based International Court of Justice (ICJ) for an 'Advisory Opinion' – a formal document setting out the court's view on a particular topic – on climate change.

But could they do this 'for real'? Could they, a group of Pacific island students, remote from the Hague, turn a paper exercise into a real project?

What persuaded them was their great sense of moral responsibility towards their own climate-afflicted communities. So after much networking they convened the 'Pacific Island Students Fighting Climate Change' (PISFCC). And it was this pan-Pacific group, with support from many others, including similarly affected Caribbean island nations, that eventually petitioned the ICJ.

With limited resources the journey was hard, but by March 2023, 132 countries had agreed to co-sponsor a resolution at the UN General Assembly, which later that month unanimously called on the ICJ to provide an Opinion on two key questions: What obligations do states have to tackle climate change under international law? What are the legal consequences if they fail to do so?

Written submissions from individual states were followed by public hearings at which the PISFCC made the opening presentation. The court then heard from 98 states, and 11 international organisations including the WHO, the International Union for the Conservation of Nature (IUCN) and OPEC (the Organisation of the Petroleum Exporting Countries).

Many states asserted that any legal responsibility could not be adjudicated by the court. And many denied that human rights had anything to do with it.

But on Wednesday 23 July the Court delivered its unanimous Advisory Opinion on the 'Obligations of States in Respect of Climate Change'. It declared that 'failure to take all necessary measures to prevent further harm from climate change constitutes an internationally wrongful act' thereby underscoring that states could be held liable for disregarding their legal obligations to protect the planet and its people, now and in the future.

Unequivocally the court also asserted that the 'human right to a clean, healthy and sustainable environment is ... inherent in the enjoyment of other human rights'.

Though not legally binding, this is still highly significant, carrying substantial moral and legal weight in international law. It now paves the way for other legal actions, including states returning to the ICJ to hold each other to account.

Make no mistake: this is a landmark judgement, which started with an extracurricular law school assignment in Vanuatu six years ago.

Join us via sustainablekeswick@gmail.com

Joe Human
Sustainable Keswick