

INTERNATIONAL COURT OF JUSTICE

OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE

ORAL PROCEEDINGS

**ON THE REQUEST FOR ADVISORY OPINION TRANSMITTED TO
THE COURT PURSUANT TO GENERAL ASSEMBLY RESOLUTION**

77/276 OF 29 MARCH 2023



Responses to Questions (a) and (b)

Prof. Charles C. Jalloh

Thursday, 5 December 2024

1. Mr. President, Distinguished Members of the Court, it is a singular honour to appear before you on behalf of Sierra Leone.
2. With respect to question (a), I will first address the proper approach to interpreting the obligations of States in respect of climate change under different regimes of international law.

3. With respect to question (b), I will address the scope of the question and why the Court should determine when and how the obligations established under question (a) can be breached and the remedies to apply to such breaches.
4. I turn first to question (a).

I. Question (a): Obligations of States with respect to climate change under international law

5. Mr. President, given the cross-cutting nature of climate change, the Court's opinion must take into account all the relevant specialized sub-regimes of international law. What the Request seeks is clarity on the totality of legal obligations imposed by an *integrated* system of international law. This approach is consistent with Article 31(3)(c) of the VCLT.¹
6. You have heard from some participants that the UNFCCC and the Paris Agreement should dictate the Court's answers to question (a).² Respectfully, Sierra Leone disagrees.³ As ITLOS recently confirmed, while the climate change treaties are the "primary legal instruments" with respect to climate change,⁴ they are "not *lex specialis* to the [UNCLOS]" and are certainly not the sole sources of States' obligations regarding climate change.⁵ The same is true regarding the relationship between the

¹ O. Dorr, "Article 31" in O. Dorr & K. Schmalenbach (eds.), *Vienna Convention on the Law of Treaties: a Commentary* (2nd Ed., Springer 2018), pp. 604-605. See, e.g., *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, *I.C.J. Reports 2010*, p. 14 ("**Pulp Mills Judgment**"), at p. 46, para. 65.

² Written Comments of the United Kingdom, paras. 10-11.

³ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, *I.C.J. Reports 1971*, p. 16 ("**Namibia Advisory Opinion**"), at p. 31, para. 53 (emphasis added).

⁴ *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion, 21 May 2024, *ITLOS Reports 2024* ("**ITLOS Climate Advisory Opinion**"), para. 222.

⁵ ITLOS Climate Advisory Opinion, para. 224.

climate change treaties, on the one hand, and human rights law and customary international law rules regarding the environment, on the other.

7. Applying a systemic integration of relevant legal regimes, States have a due diligence obligation, arising under international environmental law, the law of the sea, and human rights law, to adopt all necessary measures to limit the increase in global average temperatures to 1.5°C above pre-industrial levels. We wish to stress *four* critical points.
8. *First*, under the well-established principle of prevention, States are required to take all appropriate measures to prevent the risk of significant environmental harm to other States or in areas beyond national jurisdiction. As this Court has stressed, “in the field of environmental protection, vigilance and prevention are required on account of the often-irreversible character of damage to the environment and of the limitations inherent in the very mechanism of reparation of this type of damage.”⁶ [« *dans le domaine de la protection de l’environnement, la vigilance et la prévention s’imposent en raison du caractère souvent irréversible des dommages causés à l’environnement et des limites inhérentes au mécanisme même de réparation de ce type de dommages.* »]
9. Contrary to what certain States have argued, prevention is a duty of due diligence and a rule of customary international law that applies in the context of climate change.⁷ It is an obligation that complements, but is independent from, the commitments under the climate change treaties. For instance, due diligence entails broader obligations. These

⁶ See *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 7, at p. 78, para. 140.

⁷ *Pulp Mills Judgment*, p. 56, para. 101. See also *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, I.C.J. Reports 1996, p. 226 (“*Nuclear Weapons Advisory Opinion*”), at pp. 241–242, para. 29.

include the duty to take preventive measures—and additional procedural duties—such as the obligation to undertake environmental impact assessments.⁸

10. Some States have suggested that due diligence is context-specific and allows for broad discretion. Thus, the argument goes, in the context of climate change, there can be no *ex-ante* prescriptions of what States must do to act diligently, nor an objective metric to assess compliance.⁹
11. However, the “context-specific” nature of due diligence does not make it malleable. As ITLOS concluded, “the standard of due diligence States must exercise in relation to marine pollution from anthropogenic GHG emissions *needs to be stringent*.”¹⁰
12. It is true that due diligence affords States a margin of appreciation. But it is equally true that discretion must be exercised in accordance with the best available science,¹¹ which, for climate change, is found in the IPCC’s reports.¹² All climate change treaties reflect that States’ obligations must be “progressive” and “continually re-evaluated” in light of new scientific findings.¹³

⁸ *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment, I.C.J. Reports 2015, p. 665, at pp. 706-707, para. 104; *Pulp Mills Judgment*, pp. 79-80, para. 197; ITLOS Climate Advisory Opinion, para. 238. See also International Law Commission, Draft Articles on Prevention of Transboundary Harm from Hazardous Activities, with commentaries, in *Yearbook of the International Law Commission, 2001*, vol. II, Part Two (“**ILC Draft Articles on Prevention of Transboundary Harm**”), Art. 7.

⁹ See Written Comments of the United States of America, paras. 3.38-3.41; Written Comments of New Zealand, para. 24.

¹⁰ ITLOS Climate Advisory Opinion, para. 241 (emphasis added).

¹¹ *Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission, Advisory Opinion, 2 April 2015, ITLOS Reports 2015*, p. 4 (“**SRFC Advisory Opinion**”), at p. 59, para. 208(ii); *Southern Bluefin Tuna (New Zealand v. Japan; Australia v. Japan), Provisional Measures, Order of 27 August 1999, ITLOS Reports 1999*, p. 280, at p. 296, paras. 77-80.

¹² ITLOS Climate Advisory Opinion, para. 208.

¹³ Paris Agreement (12 December 2015, entered into force 4 November 2016), 3156 UNTS 79 (Dossier No. 16) (“**Paris Agreement**”), Preamble; UNFCCC, Preamble. See also Paris Agreement, Arts. 4(1), 7(5); Kyoto Protocol (11 December 1997, entered into force 16 February 2005), 2303 UNTS 162 (Dossier No. 11) (“**Kyoto Protocol**”), Art. 9.

13. In fact, States have committed since 2015 to hold the increase in the global average temperature to “well below 2°C”, and in any event, to “1.5°C above” pre-industrial levels, based on the “best available science”.¹⁴ That temperature goal is a science-backed international standard which enjoyed near-unanimous support even when the impacts of climate change were not yet understood to be as dire and existential as is recognized today.
14. Sierra Leone’s *second point* is this: the due diligence obligation to meet the Paris temperature goal also arises under human rights law.
15. No one contests that the climate crisis is a human rights crisis.¹⁵ This nexus is made explicit in the Paris Agreement.¹⁶ Year after year, the UN Human Rights Council recalls, with increasing urgency, that States must consider their respective human rights obligations in all climate change-related actions.¹⁷ These obligations also arise from the right to a clean, healthy and sustainable environment.¹⁸
16. Despite this, some maintain that human rights law is not relevant to the climate system.¹⁹ With respect, that is misguided. The word “climate change” does not appear

¹⁴ Paris Agreement, Arts. 2(1), 4(1).

¹⁵ See IPCC, *Climate Change 2022: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (CUP 2022), available at https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_FullReport.pdf, pp. 9-13; IPCC, *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (2023), available at https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf, p. 98.

¹⁶ Paris Agreement, Preamble.

¹⁷ See UN OHCHR, “Human Rights Council resolutions on human rights and climate change” (last accessed 2 December 2024), available at <https://www.ohchr.org/en/climate-change/human-rights-council-resolutions-human-rights-and-climate-change>.

¹⁸ See Human Rights Council, Resolution 52/23, *The human right to a clean, healthy and sustainable environment*, UN Doc. A/HRC/RES/52/23 (13 April 2023).

¹⁹ See, e.g., Written Comments of the United Kingdom, para. 49; Written Comments of Saudi Arabia, para. 4.45; Written Comments of the United States of America, para. 4.51; Written Statement of Australia, paras. 3.58-3.59.

in UNCLOS either. Nevertheless, ITLOS determined that UNCLOS codifies obligations in relation to climate change.²⁰

17. Human rights instruments protect the rights of individuals, regardless of the source of harm. There is no indication—in the text of the instruments, the jurisprudence of courts, or the decisions of treaty bodies—that the treaties should be interpreted restrictively, let alone in a manner that excludes protection from climate change-caused impacts.²¹ While some posit that the traditional framework of human rights is not well-suited to address climate change,²² none shows that human rights law is actually incompatible with the climate change-related legal regime.
18. International human rights instruments codify fundamental rights that are not merely universal in character, but are also peremptory norms or exist under customary international law.²³ The right to life in Article 6 of the ICCPR is fundamental in this regard. It ensures that all persons within the jurisdiction of a State are not arbitrarily deprived of their life without legal protection. This broad rule protects from impairment of the right to life regardless of the source of the deprivation, including, we submit, when the source of the harm is the emission of anthropogenic greenhouse gases.
19. Sierra Leone's *third point* is this: A small minority of participants have argued that binding climate change obligations would interfere with the right to development, an element of the right of self-determination.²⁴ Not so. The UNFCCC clarifies that a

²⁰ ITLOS Climate Advisory Opinion, para. 441. *See also* Written Statement of Sierra Leone, paras. 3.3-3.4.

²¹ Written Statement of Sierra Leone, para. 3.64; Written Comments of Sierra Leone, paras. 3.21-3.24.

²² *See, e.g.*, Written Comments of Saudi Arabia, para. 4.48; Written Comments of the United States of America, paras. 4.35, 4.38; Written Comments of Australia, paras. 4.14-4.16; Written Comments of New Zealand, para. 33.

²³ Written Comments of Sierra Leone, para. 3.26 (citing W. Schabas, *The Customary International Law of Human Rights* (OUP 2021), Chapters 4 & 9).

²⁴ Written Statement of Timor-Leste, paras. 337, 339. *See also* Written Comments of Saudi Arabia, para. 4.51.

State's "sovereign right to exploit [its] own resources" must be exercised "*pursuant to [its] ... environmental and developmental policies*", which in turn must comply with customary international law and other treaty obligations.²⁵ ITLOS likewise confirmed that the sovereign right to exploit natural resources under Article 193 of UNCLOS is *constrained* by States' obligations to protect the marine environment.²⁶

20. *Finally*, obligations of States to adopt measures to combat climate change will only be effective if a corresponding right to take such measures is recognized. The Court should affirm that States enjoy a margin of appreciation to regulate in the public interest, including the conduct of private actors within a State's jurisdiction. Explicit recognition of the deference owed to the judgment of States in adopting appropriate environmental regulations would give States greater confidence in taking steps to address climate change without fear of facing spurious claims by foreign investors in reaction to climate change legislation.²⁷ In this regard, Sierra Leone concurs with the views expressed by Albania and Cameroon during these proceedings.²⁸

II. The CBDR-RC Principle and the Duty to Cooperate

21. Mr. President, I move to the CBDR Principle and the Duty of Cooperation.
22. Most States and organizations agree that the CBDR Principle must inform the content of the due diligence obligation. Not only is the Principle enshrined in many climate change treaties,²⁹ it is recognised in other well-known instruments such as the

²⁵ UNFCCC, Preamble (emphasis added).

²⁶ See ITLOS Climate Advisory Opinion, para. 187.

²⁷ Sierra Leone's Oral Statement on the Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law (19 September 2023), Verbatim Record ITLOS/PV.23/C31/12/Rev.1, pp. 34-38.

²⁸ CR2024/37 (Cameroon), pp. 58-60, paras. 29-34; CR2024/34 (Albania), p. 133, para. 25.

²⁹ UNFCCC, Preamble, Arts. 3, 4; Kyoto Protocol, Art. 10; Paris Agreement, Preamble, Arts. 2, 4.

Stockholm Declaration.³⁰ The statement of the G-77 States as recently as COP 29 expressly reiterated the importance of the Principle.³¹ As ITLOS confirmed, even when the Principle is not specifically mentioned in a treaty, it informs the obligations of States regarding the environment.³²

23. In Sierra Leone's view, the CBDR Principle must reflect what can be fairly and reasonably expected from each State. Standards that are *fair* for developed countries may be *unfair* for developing countries.³³ Standards that are *fair* for high emitting countries may be *unfair* for low emitting countries.
24. There are two elements to the CBDR principle which must be borne in mind. Critically, developed States pledged to take the lead in combating climate change. They also committed to providing the necessary assistance to developing States with less capacity to do so. These legal obligations must be translated into practical support actions to ensure adaptation and mitigation to properly address climate change.

³⁰ UN General Assembly, Report of the UN Conference on the Human Environment (Stockholm, 5-16 June 1972), UN Doc. A/CONF.48/14/Rev.1 (1973) (Dossier No. 136), Chapter I: Declaration of the UN Conference on the Human Environment (Stockholm Declaration), Principle 12; UN General Assembly, Report of the UN Conference on Environment and Development (Rio de Janeiro, 3-14 June 1992), UN Doc. A/CONF.151/26 (Vol. 1) (1993) (Dossier No. 137), Annex I: Rio Declaration on Environment and Development (Rio Declaration), Principles 6, 7. *See also* Written Statement of Sierra Leone, para. 3.39; Written Comments of Sierra Leone, para. 3.51.

³¹ G77 and China Opening Statement, 29th Conference of the Parties to the UNFCCC (11 November 2024), available at <https://tinyurl.com/bdcs59a6>, p. 2.

³² ITLOS Climate Advisory Opinion, para. 326.

³³ ILC Draft Articles on Prevention of Transboundary Harm, Commentary (13) to Art. 3, p. 155.

25. International law also obliges States to cooperate in good faith to jointly manage and prevent the risks of climate change.³⁴ There is near-universal consensus on this point.³⁵ ITLOS confirmed that States have a “wide range of *specific*” and “*concrete*” obligations to cooperate in preventing, reducing, and controlling marine pollution from anthropogenic greenhouse gas emissions.³⁶
26. The CBDR Principle and the Duty to Cooperate both require the provision of technical and financial assistance to countries in need. Not as a matter of charity. But as a matter of legal obligation. Article 9 of the Paris Agreement leaves no doubt that “[d]eveloped country Parties *shall* provide financial resources to assist developing country Parties with respect to both mitigation and adaptation” measures.³⁷ Article 10 then provides that the Parties “*shall* strengthen cooperative action on technology development and transfer” and that “financial support, *shall* be provided to developing country Parties” to this end.³⁸ This obligation is of particular importance given the onerous debt burdens that developing countries are laboring under. The debt burden will only grow worse as developing States need to secure more funds to address climate change. The use of “shall” in the provisions of the Paris Agreement confirms that these are legally binding obligations. The Court’s opinion should therefore give effect to the CBDR Principle and Duty to Cooperate as rules of customary international law.

³⁴ *Pulp Mills Judgment*, p. 49, para. 77; *ibid.*, p. 67, para. 145; *Corfu Channel (United Kingdom v. Albania), Merits, Judgment, I.C.J. Reports 1949*, p. 4, at p. 22. See also *MOX Plant (Ireland v. United Kingdom), Provisional Measures, Order of 3 December 2001, ITLOS Reports 2001*, p. 95, at p. 110, para. 82; *Land Reclamation by Singapore in and around the Straits of Johor (Malaysia v. Singapore), Provisional Measures, Order of 8 October 2003, ITLOS Reports 2003*, p. 10, at p. 25, para. 92; *SRFC Advisory Opinion*, p. 43, para. 140; ILC Draft Articles on Prevention of Transboundary Harm, Art. 4.

³⁵ UNFCCC, Preamble; *ibid.*, Arts. 3(5), 4(1), 5, 6(b), 7(2), 9(2); Kyoto Protocol, Art. 10; Paris Agreement, Arts. 4(5), 7-12, 14. See also ITLOS Climate Advisory Opinion, para. 295.

³⁶ ITLOS Climate Advisory Opinion, para. 297 (emphasis added).

³⁷ Paris Agreement, Art. 9(1) (emphasis added).

³⁸ *Ibid.*, Art. 10(2), (6) (emphasis added).

III. Legal consequences, remedies and climate debt justice

27. Mr. President, I turn now to question (b). The views of Sierra Leone align with most States in their written submissions,³⁹ ITLOS⁴⁰ and the European Court of Human Rights.⁴¹ Put simply, the breach of climate change-related obligations triggers State responsibility, including the obligation to provide appropriate remedies, as established under customary international law.

28. We offer *three* main observations.

A. Question (b) concerns primary and secondary rules of international law

29. The *first* concerns the scope of Question (b), which addresses *both* primary and secondary rules. It concerns *primary* rules because the UNFCCC and the Paris Agreement establish primary obligations of developed States to provide financial support to developing States.⁴² These obligations derive from ongoing harm caused by climate change.

³⁹ See, e.g., Written Statement of Sierra Leone, para. 3.135; Written Statement of Palau, para. 26; Written Statement of Burkina Faso, paras. 266, 269, 273; Written Statement of Egypt, paras. 315-331; Written Statement of Mauritius, para. 124; Written Statement of the Marshall Islands, paras. 55-58; Written Statement of Tuvalu, paras. 126-142; Written Statement of Democratic Republic of Congo, paras. 296-304; Written Statement of India, paras. 81-82; Written Statement of El Salvador, paras. 50-51; Written Statement of the Bahamas, para. 233; Written Statement of Saint Vincent & the Grenadines, para. 128; Written Statement of Saint Lucia, para. 97(vi); Written Statement of Kiribati, paras. 178-196; Written Statement of Portugal, para. 114; Written Statement of Tonga, paras. 289-301; Written Statement of Uruguay, para. 164; Written Statement of Vanuatu, para. 557; Written Statement of France, para. 169; Written Statement of Melanesian Spearhead Group, para. 292; Written Statement of OACPS, paras. 143-144; Written Comments of Sierra Leone, para. 4.7; Written Comments of The Gambia, para. 5.1; Written Comments of Albania, para. 62; Written Comments of Antigua & Barbuda, paras. 94-100; Written Comments of Australia, para. 6.2; Written Comments of the Bahamas, para. 106.

⁴⁰ ITLOS Climate Advisory Opinion, para. 223.

⁴¹ *Case of Verein Klimaseniorinnen Schweiz and others v. Switzerland*, ECtHR [GC], Application No. 53600/20, Judgment (9 April 2024), paras. 442-444.

⁴² UNFCCC, Art. 4(5); Paris Agreement, Preamble, Arts. 9, 11; UNFCCC, Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, UN Doc. FCCC/PA/CMA/2023/16/Add.1 (15 March 2024), Decision 1/CMA.5, *Outcome of the first global stocktake* (13 December 2023), para. 88; Committee on Economic, Social and Cultural Rights, *General comment No. 26 (2022) on land and economic, social and cultural rights*, UN Doc. E/C.12/GC/26 (24 January 2023), paras. 57-58; Committee on the Rights of the Child, *General comment*

30. Question (b) also concerns secondary rules because, as the Court explained in the *Wall and Palestine* Advisory Opinions, the use of the term “legal consequences” in a request for an advisory opinion “necessarily encompasses an assessment of whether [an act or omission] is or is not in breach of certain rules and principles ...”.⁴³ [« [S]i l’Assemblée générale prie la Cour de dire ‘[q]uelles sont en droit les conséquences’ ... l’emploi de ces termes implique nécessairement de déterminer si [cet acte ou omission] viole ou non certaines règles et certains principes de droit international. »]

B. The Court should establish when international law could be violated and what remedies would be appropriate

31. That takes me to our third observation. Some have argued that, even if the Court could opine on potential violations, it cannot find “any ... liability” because Question (b) is abstract.⁴⁴

32. Sierra Leone respectfully disagrees. Question (b) does not ask the Court to make any findings regarding the liability of any State for any alleged breach. Instead, the question seeks the Court’s opinion on the *legal consequences* of a breach. In *Nuclear Weapons*, the question similarly concerned the legality of the threat of the use of nuclear weapons in general, not a specific threat by a specific State. The Court nonetheless established *when and how* such a general, abstract threat violated international law.⁴⁵

No. 26 (2023) on children’s rights and the environment, with a special focus on climate change, UN Doc. CRC/C/GC/26 (22 August 2023), para. 106; Written Statement of France, paras. 233-240.

⁴³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136 (“*Wall Advisory Opinion*”), at p. 154, para. 39; *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, Advisory Opinion, I.C.J. Reports 2024 (“Palestine Advisory Opinion”)*, p. 25, para. 74.

⁴⁴ Written Comments of the United States of America, para. 5.3 (emphasis added). *See also* Written Statement of France, para. 173; Written Statement of the Nordic Countries, para. 109; Written Statement of Peru, para. 95; Written Statement of Saudi Arabia, para. 6.2; Written Statement of Slovenia, para. 15.

⁴⁵ *Nuclear Weapons Advisory Opinion*, p. 266, para. 105(2)(E).

33. Indeed, every time the General Assembly has asked the Court to determine the “legal consequences” of a measure, the Court has not only decided if it violates international law. It has also described the applicable remedies, in for instance the *Namibia*, *Wall*, *Chagos*, and *Palestine Advisory Opinions*.⁴⁶ Those remedies include, *inter alia*, performing the obligation breached by an act or omission⁴⁷ and ending as rapidly as possible those acts and omissions.⁴⁸
34. The Court should also determine that anthropogenic greenhouse gas emissions cause material and non-material damage, and that States responsible for such damage are obligated to provide full reparation.⁴⁹ This aligns with the Articles on State Responsibility.
35. The fact that establishing causation in any particular case may prove difficult provides no basis for rejecting *a priori* that remedy, as some participants have suggested.⁵⁰ In the *Certain Activities* and *Armed Activities* cases, the Court adopted a relaxed standard of causation, and applied principles of equity to ensure that environmental damage was

⁴⁶ *Namibia Advisory Opinion*, p. 58, paras. 133(1)-(3); *Wall Advisory Opinion*, p. 197, para. 149; Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019, p. 95 (“*Chagos Advisory Opinion*”), at p. 139, para. 178; *Palestine Advisory Opinion*, p. 74, paras. 270, 272.

⁴⁷ *Palestine Advisory Opinion*, para. 272; *Wall Advisory Opinion*, p. 197, para. 149.

⁴⁸ *Palestine Advisory Opinion*, p. 73, para. 267; *Chagos Advisory Opinion*, p. 139, para. 178; *Wall Advisory Opinion*, p. 197, para. 150.

⁴⁹ *Palestine Advisory Opinion*, p. 73, para. 269.

⁵⁰ Written Comments of Saudi Arabia, paras. 5.20-5.22; Written Comments of Timor Leste, para. 109.

repaired.⁵¹ The same must be done, and has been done,⁵² with respect to climate change harm.⁵³

36. It is critical that the Court’s Advisory Opinion confirm that reparation is available to persons that have suffered climate change harm.⁵⁴ In August 2024, the UN Secretary-General reported on the effects of climate change loss and damage on human rights. The Secretary-General acknowledged that this crisis impairs the fulfillment of fundamental rights.⁵⁵ And, notably, amongst the solutions recommended, he called upon States to provide “debt relief and debt restructuring for developing countries.”⁵⁶
37. Mr. President, the importance of debt relief and debt restructuring, as called for by the Secretary-General, cannot be understated. Because *both* climate change harm and the resources that developing countries need to address it are ever growing, 93 percent of developing countries most vulnerable to climate change are already in debt distress or

⁵¹ *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, Compensation, Judgment, I.C.J. Reports 2018, p. 15, at pp. 26-27, para. 35; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Reparations, Judgment, I.C.J. Reports 2022, p. 13, at pp. 126-127, paras. 364-365.

⁵² *Case of Verein Klimaseniorinnen Schweiz and others v. Switzerland*, ECtHR, Application No. 53600/20, Judgment (9 April 2024), paras. 442-444; Human Rights Committee, *Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, Concerning Communication No. 3624/2019*, UN Doc. CCPR/C/135/D/3624/2019 (22 September 2022).

⁵³ See e.g., Human Rights Council, *Report of the Secretary-General: Analytical study on the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights, exploring equity-based approaches and solutions to addressing the same*, UN Doc. A/HRC/57/30 (28 August 2024), para. 20 (citing Human Rights Committee, general comment No. 36 (2018), para. 4).

⁵⁴ *Palestine Advisory Opinion*, p. 73, para. 269; *Wall Advisory Opinion*, p. 136, paras. 152-153.

⁵⁵ Human Rights Council, *Report of the Secretary-General: Analytical study on the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights, exploring equity-based approaches and solutions to addressing the same*, UN Doc. A/HRC/57/30 (28 August 2024), paras. 6-8.

⁵⁶ *Ibid.*, para. 58(b).

at significant risk thereof.⁵⁷ This is particularly burdensome because the interest needed to service such debts is particularly high for developing countries.⁵⁸

38. Indeed, in Africa, many countries spend more on servicing debt than serving their people.⁵⁹ When governments struggle to feed their people, it should not surprise anyone that it becomes near impossible for them to address the climate crisis. Nor should anyone be surprised when such highly indebted States feel compelled to engage in polluting activities to secure funds to pay their debts. This cycle must be broken.⁶⁰

39. Mr. President, Honourable Judges, the General Assembly has once again sought legal guidance on a matter of fundamental importance. The world once again eagerly awaits the Court's response. For the sake of humanity, both present and future generations. For the sake of the environment. And for the sake of our planet.

40. This concludes Sierra Leone's submissions. We thank you for your kind attention.

⁵⁷ Human Rights Council, *Report of the Secretary-General: Analytical study on the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights, exploring equity-based approaches and solutions to addressing the same*, UN Doc. A/HRC/57/30 (28 August 2024), para. 44; ActionAid International, *The Vicious Cycle: Connections Between the Debt Crisis and Climate Crisis* (April 2023), available at https://actionaid.org/sites/default/files/publications/The_vicious_cycle.pdf, pp. 2, 6-7.

⁵⁸ UNCTAD, *A world of debt: A growing burden to global prosperity* (2024), available for download at <https://unctad.org/publication/world-of-debt>, pp. 14, 16.

⁵⁹ *Ibid.*, pp. 18-19; Statement by His Excellency Dr. Julius Maada Bio, President of the Republic of Sierra Leone at the General Debate of the 79th Session of the United Nations General Assembly High Level Week (24 September 2024), available at https://gadebate.un.org/sites/default/files/gastatements/79/sl_en.pdf, para. 57.

⁶⁰ See, e.g., African Union, *The African Leaders Nairobi Declaration on Climate Change and Call to Action* (6 September 2023), available at https://www.afdb.org/sites/default/files/2023/09/08/the_african_leaders_nairobi_declaration_on_climate_change-rev-eng.pdf, paras. 53-55; Written Comments of African Union, para. 88; Written Comments of Barbados, paras. 8, 18; Written Statement of Kenya, para. 6.111 *et seq*; Written Statement of Colombia, para. 4.15.