

# World's highest court can set out countries' climate obligations after Vanuatu secures historic UN vote

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CNN —

Pacific Island nation of Vanuatu on Wednesday won a historic vote at the United Nations that calls on the world's highest court to establish for the first time the obligations countries have to address the climate crisis — and the consequences if they don't.

Vanuatu has long faced the disproportionate impacts of rising seas and intensifying storms. And in 2021, it launched its call for the UN International Court of Justice to provide an "advisory opinion" on the legal responsibility of governments to fight the climate crisis, arguing that climate change has become a human rights issue for Pacific Islanders.

Although the advisory opinion will be non-binding, it will carry significant weight and authority and could inform climate negotiations as well as future climate lawsuits around the world. It could also strengthen the position of climate-vulnerable countries in international negotiations.

This year has already been rough for Vanuatu: It is currently under a six-month state of emergency after a rare pair of Category 4 cyclones pummeled the country within 48 hours during the first week of March. The islands' residents are still picking their way through the storms' rubble.

Wednesday's resolution for an advisory opinion passed by majority, backed by more than 130 countries. Two of the world's largest climate polluters, the US and China, did not express support, but did not object meaning the measure passed by consensus.

This is the first time the highest international court is called on to address the climate crisis. The landmark decision is "essential," UN Secretary General António Guterres said in his remarks to the assembly. "Climate justice is both a moral imperative and a prerequisite for effective global climate action."

Advisory opinions have "tremendous importance and can have a long-standing impact on the international legal order," Guterres said.



Damage in the aftermath of Category 4 Cyclone Kevin in Port Vila, Vanuatu, on March 4, 2023.

Yacht Delivery Solutions/Reuters

"Today we have witnessed a win for climate justice of epic proportions," said Ishmael Kalsakau, prime minister of Vanuatu, soon after the resolution was adopted. "The very fact that a small Pacific island nation like Vanuatu was able to successfully spearhead such a transformative outcome speaks to the incredible support from all corners of the globe."

Ralph Regenvanu, Vanuatu's minister of climate change adaptation, told CNN that he hopes the opinion would be "greatly persuasive in terms of increasing domestic action and identifying what gaps in international law and domestic law need to be filled."

"It is quite historic," he added.

## From classroom to the highest court

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Pacific islander activists rallying in boats in front of the UN headquarters in New York City during the 2022 UN Climate Week.

Rachel Ramirez/CNN

The push to seek an advisory opinion from the world's highest court began in an environmental law class in Fiji in 2019.

Cynthia Houniuhi, president of Pacific Islands Students Fighting Climate Change, said she and her peers had been looking for ways to address the climate crisis head-on through various international legal pathways, until they decided on the International Court of Justice.

"To be honest, at first, I was very hesitant when this idea was discussed," Houniuhi said. "My mind keeps telling me to back off. I mean, let's be real here, it was too ambitious to say the least. Like, how can a small group of students from the Pacific Region convince the majority of the UN members to support this unique initiative?"

But as Pacific Island nations continue to suffer from hotter temperatures and more droughts, rising sea levels, and increasingly intense cyclones, Houniuhi realized they needed to do this.

"What is the use of learning all this knowledge if it's not for people to fight the single greatest threat to their security?" she said. "For me, the memories of my childhood growing up in my village with my people are slowly fading, as the environment that sustained us disintegrates before our eyes."



Vanuatu has long faced the disproportionate impacts of rising seas and intensifying storms.

Bill Weir/CNN

Tropical cyclones are not rare in Oceania, but Vanuatu, which has the highest disaster risk in the world, suffers disproportionately highly.

Scientists say these storms are intensifying as the planet warms and will continue to carry a tremendous economic toll. According to Regenvanu, the financial damage caused by the recent twin cyclones will likely amount to more than half of Vanuatu's GDP.

"It's an enormous impact," he said. "We just have to try to recover, rebuild, all the while knowing that we are coming up to the next climate impact."

To get support for their idea, the Pacific Island students passed around a petition that garnered signatures from teachers and students. And while campaigning for the initiative, they drafted a letter and proposal that they sent to Pacific Island governments.

After receiving positive feedback from Vanuatu, the student members met with Regenvanu, who was the foreign affairs minister at the time.

"I could empathize with them, and I share their convictions and passions," Regenvanu said. "I was very happy to receive that proposal and to commit to advancing it."



Damage in the aftermath of Category 4 Cyclone Kevin in Port Vila, Vanuatu, on March 4, 2023.

DevMode/Reuters

The Vanuatu government kept its word, endorsing the proposal and taking it to the international stage.

“It was history in the making,” Houniuhi said. “I don’t want to show a picture to my child one day of my island. I want my child to be able to experience the same environment in the same culture that I grew up in.”

## **Final stretch**

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During last year’s UN Climate Week in New York City, a group of Pacific Islander climate activists amped up the pressure on UN leaders, who were gathering for the annual UN General Assembly to discuss climate change-related matters.

Along the East River in front of the UN headquarters, students and climate activists sailed in a flotilla of boats, flying the flags of more than a dozen Pacific Island nations while calling on leaders to vote “yes” to their request for an advisory opinion.



Pacific islander activists rallying in boats in front of the UN headquarters in New York during UN Climate Week in 2022.

Rachel Ramirez/CNN

The momentum continued two months later at the UN's COP27 climate summit in Sharm el-Sheikh, Egypt, where world leaders and negotiators agreed to create a loss and damage fund, which Vanuatu first proposed back in 1991.

The idea is that rich countries — which have contributed the most to climate change with their planet-warming pollution — should pay poorer nations to recover from the resulting disasters.

“It’s a great injustice when you see oil companies make billions in profits when countries like ours in the Pacific are looking for and seeking support for climate adaptation and mitigation,” said Lavetanalagi Seru, Fijian climate activist and regional policy coordinator with the Pacific Islands Climate Action Network. “And now, we are living through an era of loss and damage.”

While the advisory opinion is separate from loss and damage, Regenvanu said they are both rooted in climate justice. Having an advisory opinion from the highest court would provide legal clarity of how a loss and damage fund would work.

“The ICJ advisory opinion will come at a the right time to help us define what loss and damage means [and] how it will work,” he said.



Pacific islander activists rallying in boats in front of the UN headquarters in New York during UN Climate Week in 2022.

Rachel Ramirez/CNN

Regenvanu said Vanuatu's request brings attention to the legal avenues small countries can take to fend off the worsening effects of the climate crisis.

"While the Paris Agreement is an essential part of the international legal framework for climate action, it is certainly not the only instrument ... nor is it the most legally enforceable," Regenvanu said.

It could still take around 18 months for an opinion to be issued, with countries able to provide input into the process.

The climate change minister will now head home to Vanuatu, where he said he will rejoin the ongoing relief efforts after the recent storms.

"We're basically constantly in a state of recovery in response to climate disasters," Regenvanu said. "This is why we are so passionate on the climate change front, because this is our reality, and we need to deal with it, and we need other countries to assist us to deal with it."