INTERNATIONAL COURT OF JUSTICE

OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE (REQUEST FOR ADVISORY OPINION)

Written Comment of the
Republic of the Philippines

15 August 2024

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I. Introduction.

> *So today, we dumped another 70 million tons of global-warming pollution into the thin shell of atmosphere surrounding our planet, as if it were an open sewer. And tomorrow, we will dump a slightly larger amount, with the cumulative concentrations now trapping more and more heat from the sun.*
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> *As a result, the earth has a fever. And the fever is rising. The experts have told us it is not a passing affliction that will heal by itself. We asked for a second opinion. And a third. And a fourth. And the consistent conclusion, restated with increasing alarm, is that something basic is wrong.*
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> *We are what is wrong, and we must make it right.*
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> — Nobel Lecture given by former USA Vice President Albert Arnold Gore Jr. on 10 December 2007 at the Oslo City Hall, Norway.

1. In accordance with this Court's *Orders dated 20 April 2023, 04 August 2023, 15 December 2023* and *30 May 2024,* the Philippines hereby submits this Written Comment on the Written Statements presented before this Court in connection with the request for an advisory opinion of the United Nations General Assembly (UNGA) as contained in UNGA *Resolution 77/276* and adopted by consensus last 29 March 2023.

2. This Written Comment addresses specific submissions coming from the Written Statements of other States and non-State Organizations. Its contents are organized as follows: *first*, it emphasizes anew that this Court has jurisdiction over the present request for advisory opinion; *second,* it highlights certain portions of the submissions of other member States and non-State Organizations and submits the Philippines' comments thereon; and, *finally*, it states its conclusion on the issues raised before this Court.

3. Overall, the Philippines re-states its position that this Court's answers to the questions put forth by UNGA *Resolution 77/276* should emphasize that (i) this Court has jurisdiction to render an advisory opinion pursuant to Chapter IV, Article 65(1) of the International Court of Justice (ICJ) Statute; (ii) this Court should consider all sources of State obligations, whether under customary international law, general principles of international law or treaty law, in looking into, and answering, the questions posed before it; and, (iii) the State obligations arising therefrom, as they pertain to the environment, are legally binding upon all States. Thus, any act or omission of a State, State actor or a private individual or entity whose actions may be attributable to the State, triggers relevant State obligations when such act or

omission causes, or may tend to cause, harmful outcomes on the environment and aggravates climate change effects.[1]

II. ICJ Jurisdiction over the Request for an Advisory Opinion.

4. The Philippines, in its *Written Statement dated 21 March 2024,* discussed at length that (i) this Court has jurisdiction to render an advisory opinion pursuant to Chapter IV, Article 65(1) of the Statute of the International Court of Justice; and (ii) the paramount importance of the questions raised by the UNGA, through UNGA *Resolution 77/276*, requires authoritative guidance from this Court.

5. In some Written Statements submitted, however, there were seeming misstatements of both the questions posed before this Court and the task entrusted by the UNGA to this Court, *viz.:*

a. The questions are not precise enough[2] or were phrased in broad terms;[3]

b. The questions invite this Court to go into the realm of *lex ferenda* or future law;[4] and,

c. Caution should be employed by this Court in the exercise of its jurisdiction given the political nature of ongoing negotiations in respect to climate change.[5]

A. The questions posed before this Court expressly state and reflect the exact matters for which the UNGA seeks clarification.

6. Some States claim that the questions posed before this Court were not phrased in exact and precise terms. In contrast, the Philippines submits that the questions presented before this Court were expressed in clear and precise language.

7. The questions presented before this Court were formulated and co-sponsored by no less than **132 member States** representing an overwhelming majority of the UN membership. UNGA *Resolution 77/276,* on the other hand, was adopted by *consensus* by the General Assembly. The adoption of UNGA *Resolution 77/276* by *consensus* is significant as it shows that **all member States** agreed on the text of UNGA *Resolution 77/276* such that the same no longer needed to be put to a vote.

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1 *See* Trail Smelter Case (U.S.A./Canada), Merits, Award, 1941 (III) R.I.A.A. 1905 (16 April 1938 & 11 March 1941); Lake Lanoux Arbitration (France v. Spain), Merits, Award, 1957 R.I.A.A. 281 (16 November 1957); Pulp Mills on the River Uruguay (Argentina v. Uruguay), Provisional Measures, Order, 2006 I.C.J. Reports 113 (13 July 2006); Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua), Compensation, Judgment, 2018 I.C.J. Reports 15 (02 February 2018).

2 *See* Written Statement of Iran.

3 *See* Joint Statement of Denmark, Finland, Iceland, Norway, and Sweden; and South Africa.

4 *See* Written Statement of Iran and China.

5 *See* Written Statement of Saudi Arabia.

8. Further, the chapeau of UNGA *Resolution 77/276* provides clarity on the UNGA's position as to the extent of "international law" upon which obligations of States in respect to the protection of the climate system and the environment may be drawn, *viz.*:

> *Emphasizing* the importance of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the United Nations Convention on the Law of the Sea, the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Convention on Biological Diversity and the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, among other instruments, and of the relevant principles and relevant obligations of customary international law, including those reflected in the Declaration of the United Nations Conference on the Human Environment and the Rio Declaration on Environment and Development, to the conduct of States over time in relation to activities that contribute to climate change and its adverse effects,
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> *Recalling* the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement, as expressions of the determination to address decisively the threat posed by climate change, urging all parties to fully implement them, and noting with concern the significant gap both between the aggregate effect of States' current nationally determined contributions and the emission reductions required to hold the increase in the global average temperature to well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels, and between current levels of adaptation and levels needed to respond to the adverse effects of climate change, xxx. (citations omitted)

9. Moreover, the UNGA explicitly asks for this Court's opinion on the legal consequences of acts and omissions of States that will cause significant harm to the climate system and the environment. Such precise formulation is mindful of this Court's observation in *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo*[6] that when this Court's opinion on the "legal consequences of an action" is being asked, then such must be "expressly stated," thus:

> 51. In the present case, the question posed by the General Assembly is clearly formulated. The question is narrow and specific; it asks for the Court's opinion on whether or not the declaration of independence is in accordance with international law. It does not ask about the legal consequences of that declaration. In particular, it does not ask whether or not Kosovo has achieved

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[6] *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, 2010 I.C.J. Reports 403 (22 July 2010).

> statehood. Nor does it ask about the validity or legal effects of the recognition of Kosovo by those States which have recognized it as an independent State. **The Court notes that, in past requests for advisory opinions, the General Assembly and the Security Council, when they have wanted the Court's opinion on the legal consequences of an action, have framed the question in such a way that this aspect is expressly stated** (see, for example, *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 and *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I)*, p. 136). Accordingly, the Court does not consider that it is necessary to address such issues as whether or not the declaration has led to the creation of a State or the status of the acts of recognition in order to answer the question put by the General Assembly. The Court accordingly sees no reason to reformulate the scope of the question. (emphasis supplied)

10. In the present instance, therefore, the questions posed before this Court are defined and specific –these ask for this Court's opinion on what the obligations of States are under international law in respect to the protection of the climate system and the environment from the anthropogenic greenhouse gas (GHG) emissions and the legal consequences of a violation or breach of these obligations if harm is caused to the climate system and the environment.

B. The questions posed before this Court do not go into the realm of lex ferenda.

11. Some States maintain that this Court is being asked to go beyond *lex lata* and enter the province of *lex ferenda* as it is being requested to look into factual considerations instead of simple legal matters. The Philippines proffers that the questions put forth neither invite this Court to create a law nor to render a proposition of what the law ought to be.

12. It is clear from both the chapeau of UNGA *Resolution 77/276* and the preface to the questions submitted to this Court, as apparent from the very phraseology *"having particular regard to"*, that the inquiries were anchored upon a particular list of existing international law principles and instruments.

13. In fact, Question A raised by the UNGA *Resolution 77/276* went on to elucidate that the obligations of States that this Court is asked to render its advisory opinion on are in regard to those *"obligations of States under international law."*

14. Question B of the UNGA *Resolution 77/276* went on to further ask this Court to determine extant legal consequences *"under these obligations,"* clearly referencing the obligations being sought under Question A.

15. Evidently, the determination of obligations and the legal consequences of an act and omission in breach of such obligations, which is being sought from this Court, is clearly moored upon a given and existing set of international law principles and instruments.

16. Additionally, in the Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*,[7] this Court clearly declared that, even assuming *arguendo* that the questions posed before it are in the abstract, it can nonetheless answer the same:

> [I]t is the clear position of the Court that to contend that it should not deal with a question couched in abstract terms is 'a mere affirmation devoid of any justification', and that 'the Court may give an advisory opinion on any legal question, abstract or otherwise" (Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter), Advisory Opinion, 1948, I.C.J. Reports 1947-1948, p. 61; see also Effect of Awards of Compensation Made by the United Nations Administrative Tribunal, Advisory Opinion, I. C.J. Reports 1954, p. 51 ; and 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. 27, para. 40).[8]

17. Moreover, as stated by the Philippines in its *Written Statement*, factual considerations underlying a particular question would not render this Court incapable of exercising its jurisdiction over a request for an advisory opinion.

18. In determining the obligations of States relating to the reduction and prevention of climate change, factual questions may arise therefrom, such as, among others, whether there is a causal link between the anthropogenic GHG emissions and the severity of climate change and whether the historical emissions of States can give rise to State responsibility for damages under international law.

19. Even so, the presence of both factual and legal elements in certain questions or even the necessity of making factual determinations would not deprive this Court of its authority or competence to take cognizance of a request for an advisory opinion on climate change.

C. This Court can exercise its jurisdiction despite the claim that this Court's Advisory Opinion goes into political considerations of ongoing climate negotiations.

20. Caution was raised on the fact that this Court should apply care in taking cognizance of the instant matter as its advisory opinion may impact the political character of ongoing climate change negotiations.

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7 Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. Reports 226 (08 July 1996). (Hereinafter referred to as the Nuclear Weapons Advisory Opinion)

8 *Ibid.*, at 226, ¶ 15.

21. On this score, the Philippines maintains that this Court, despite the ongoing negotiations on climate change and the deep political divide that pervades such negotiations, is behooved to exercise its jurisdiction.

22. The Philippines reiterates its position in its *Written Statement* that the possibility that the questions put forward to this Court would raise political questions does not, in any manner, affect their legal character and the jurisdiction of this Court over the request for an advisory opinion.[9] Regardless of the political aspects and dimensions of climate change, this Court cannot refuse to admit the legal character of a question and has the duty to discharge an essentially judicial task[10] pertaining to the determination of the obligations of States as imposed upon them and the consequences of their acts or omissions as sanctioned by international law.

23. Verily, in *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt,*[11] this Court stated that the political nature of the matter presented before it will not bar this Court from taking cognizance of the matter and rendering an advisory opinion. This Court also declared therein that an advisory opinion may be "*particularly necessary*" in instances where there are *"political considerations*" in order to clarify "*the legal principles applicable with respect to the matter under debate,*" thus:

> 33. In the debates in the World Health Assembly just referred to, on the proposal to request the present opinion from the Court, opponents of the proposal insisted that it was nothing but a political manoeuvre designed to postpone any decision concerning removal of the Regional Office from Egypt, and the question therefore arises whether the Court ought to decline to reply to the present request by reason of its allegedly political character. In none of the written and oral statements submitted to the Court, on the other hand, has this contention been advanced and such a contention would in any case, have run counter to the settled jurisprudence of the Court. That jurisprudence establishes that if, as in the present case, a question submitted in a request is one that otherwise falls within the normal exercise of its judicial process, the Court has not to deal with the motives which may have inspired the request (Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter), Advisory Opinion, 1948, I. C.J. Reports 1947-1 948, pp. 6 1-62 ; Competence of the General Assembly for the Admission of a State to the United Nations, Advisory Opinion, I.C.J. Reports 1950, pp. 6-7 ; Certain Expenses of the United Nations (Article 1 7, paragraph 2, of the Charter), Advisory Opinion, I. C.J. Reports 1962, p. 155). **Indeed, in situations in which political considerations are prominent it may be particularly necessary for an international organization to obtain an advisory opinion from the Court as to the legal principles applicable with respect to the**

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9 Nuclear Weapons Advisory Opinion, 1996 I.C.J., at 234, ¶ 13; Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion, 1996 I.C.J. Reports 66 (08 July 1996), at 74, ¶ 16.

10 Nuclear Weapons Advisory Opinion, 1996 I.C.J., at 234, ¶ 13

11 Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, 1980 I.C.J. Reports (20 December 1980).

> **matter under debate, especially when these may include the interpretation of its constitution.**[12] (emphasis supplied)

24. Furthermore, this Court has long declared that it cannot look into the judgement of the UNGA on the political usefulness or relevancy of an advisory opinion. Such view finds application especially in instances like the present case where the UNGA *Resolution 77/276* was adopted by consensus, thus, clearly manifesting that the UNGA considers this Court's advice on the questions posed as crucial and determinative.

25. Thus, in *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo,*[13] this Court expressly stated that:

> 35. **Nor does the Court consider that it should refuse to respond to the General Assembly's request on the basis of suggestions, advanced by some of those participating in the proceedings, that its opinion might lead to adverse political consequences.** Just as the Court cannot substitute its own assessment for that of the requesting organ in respect of whether its opinion will be useful to that organ, it cannot — in particular where there is no basis on which to make such an assessment — substitute its own view as to whether an opinion would be likely to have an adverse effect. As the Court stated in its Advisory Opinion on Legality of the Threat or Use of Nuclear Weapons, in response to a submission that a reply from the Court might adversely affect disarmament negotiations, faced with contrary positions on this issue "there are no evident criteria by which it can prefer one assessment to another" (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I), p. 237, para. 17; see also Western Sahara, Advisory Opinion, I.C.J. Reports 1975, p. 37, para. 73; and Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I), pp. 159-160, paras. 51-54).[14] (emphasis supplied)

III. The Philippines' Comments to Key Submissions of Other States and Non-State Organizations.

26. In this section, the Philippines addresses the following submissions of other States and non-State Organizations, *to wit*:

i. The obligations and consequences referred to by the questions posed before this Court pertain to obligations arising only under the United

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12 *Ibid.*, at 73, ¶ 33.

13 Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, 2010 I.C.J. Reports (22 July 2010).

14 *Ibid.*, at 403, ¶ 35.

Nations Framework Convention on Climate Change (UNFCCC), *Kyoto Protocol* and the *Paris Agreement*;[15]

ii. The International Law Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Act (ARSIWA) are inapplicable[16] or have limited applicability;[17]

iii. There is forum shopping and the risk of fragmentation of international law since the Inter-American Court on Human Rights and the International Tribunal for the Law of the Sea (ITLOS) have both been approached to render advisory opinions on similar questions;[18]

iv. There is no customary international law duty to not cause transboundary harm and to exercise due diligence in the context of climate change;[19]

v. The International Human Rights framework does not apply to the Climate Change regime;[20] and,

vi. It is doubtful that the principle of intergenerational equity will find application in the context of climate change.[21]

A. The obligations and consequences referred to are not limited to those under the UNFCCC, Kyoto Protocol and Paris Agreement. These also include those arising from customary international law, general principles of international law and other treaties and conventions.

27. Some of the Written Statements filed advance the argument that this Court, in answering the questions posed before it, must only consider the provisions of the UNFCCC, *Kyoto Protocol* and the *Paris Agreement*, as these agreements purportedly reign supreme in the context of climate change.

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15 *See* Written Statements of the Organization of the Petroleum Exporting Countries (OPEC), United States of America, Saudi Arabia, Kuwait, China, Japan, South Africa, Brazil, United Kingdom, Latvia, and Canada.

16 *See* Written Statements of China, OPEC, United Kingdom, Japan, and European Union.

17 *See* Written Statements of Saudi Arabia, South Africa, New Zealand, Korea, Russian Federation, Australia, and Joint Statement of Denmark, Finland, Iceland, Norway, and Sweden.

18 *See* Written Statement of South Africa.

19 *See* Written Statement of New Zealand, Canada, United States of America, China, Indonesia, and Russia.

20 *See* Written Statements of New Zealand, Australia, Saudi Arabia, Iran, Indonesia, Russia, Canada, United States of America. China, Thailand, and Romania.

21 *See* Written Statements of New Zealand, Thailand and Romania.

28. The Philippines respectfully submits that the sources of obligations referred to in Question A of the *UNGA Resolution 77/276*, and the legal consequences adverted to in Question B thereof, do not only refer to the totality of climate change-related agreements.

29. In fact, the *European Court of Human Rights* (ECtHR), in *Verein Klimaseniorinnen Schweiz and Others vs. Switzerland,*[22] linked Switzerland's obligation to uphold and respect the applicants' rights to life, health, well-being and quality of life, as protected by Article 8 (right to respect for private life and family life) of the European Convention on Human Rights (ECHR) vis-à-vis its commitment to reduce GHG emissions pursuant to its 2030 goal set by the *Paris Agreement* in 2015.

30. Likewise, the ITLOS, in its advisory opinion in *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law,*[23] interlinked the obligations arising from the United Nations Convention on the Law of the Sea (UNCLOS) with those encapsulated in various international agreements such as the UNFCCC, *Paris Agreement* and *Kyoto Protocol*, the International Maritime Organization's Convention for the Prevention of Pollution from Ships, the International Civil Aviation Organization's Convention on International Civil Aviation, the Vienna Convention for the Protection of the Ozone Layer and its accompanying Montreal Protocol, customary international law, and general principles of international environmental law. Hence, the ITLOS clearly stated that:

> 199. In relation to anthropogenic GHG emissions, the objective of preventing, reducing and controlling marine pollution should be appreciated on the basis of the scientific assessment that, even if anthropogenic GHG emissions were to cease, the deleterious effects on the marine environment would nevertheless continue owing to the extent of GHGs already accumulated in the atmosphere. The obligation under article 194, paragraph 1, of the Convention requires States to take all necessary measures with a view to reducing and controlling existing marine pollution from such emissions and eventually preventing such pollution from occurring at all. Therefore, this obligation does not entail the immediate cessation of marine pollution from anthropogenic GHG emissions.
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> 200. **The Tribunal notes in this regard Article 4, paragraph 1, of the Paris Agreement**, which provides that
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> > [i]n order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century.

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22 ECtHR, Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, No. 53600/20, Judgment (Grand Chamber) of 9 April 2024.

23 Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law, Advisory Opinion, ITLOS (21 May 2024). (Hereinafter referred to as ITLOS/COSIS Advisory Opinion)

> The Tribunal considers that the aim set out in the above provision is consistent with the objective of the obligation under article 194, paragraph 1, of the Convention.
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> xxx xxx xxx
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> 213. The Tribunal wishes to add at this juncture that in determining necessary measures, scientific certainty is not required. In the absence of such certainty, **States must apply the precautionary approach in regulating marine pollution from anthropogenic GHGs.** While the precautionary approach is not explicitly referred to in the Convention, such approach is implicit in the very notion of pollution of the marine environment, which encompasses potential deleterious effects. In this regard, the Tribunal recalls the observation of the Seabed Disputes Chamber in *Responsibilities and Obligations of States with Respect to Activities in the Area* (hereinafter "the *Area Advisory Opinion*") that the precautionary approach has been incorporated into a growing number of international treaties and other instruments, many of which reflect the formulation of Principle 15 of the Rio Declaration. In the view of the Chamber, this has initiated a trend towards making this approach part of customary international law. (*Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011*, p. 10, at p. 47, para. 135)
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> For marine pollution arising from anthropogenic GHG emissions, the precautionary approach is all the more necessary given the serious and irreversible damage that may be caused to the marine environment by such pollution, as is assessed by the best available science.
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> 214. **Relevant international rules and standards are another reference point for assessing necessary measures.** In the context of climate change, such international rules and standards are found in various climate-related treaties and instruments. The UNFCCC and the Paris Agreement stand out in this regard as primary treaties addressing climate change. Annex VI to MARPOL, which was amended in 2011 and 2021 with a view to reducing GHG emissions from ships, is also relevant. Volumes III and IV of Annex 16 to the Chicago Convention can be referred to in taking necessary measures to prevent, reduce and control GHG emissions from aircraft. The Montreal Protocol, including the Kigali Amendment, is also of relevance.[24] (emphasis supplied)

31. The obligations, therefore, arising in respect to the environment and climate change cannot be viewed from a limited and myopic perspective. Due to the cross-sectoral, multi-regional, inter-racial, and transboundary effects of climate change, it is imperative to look into, and cross-reference, the applicability and relevance of the plethora of customary international law, general principles of international law, and various conventions and treaties.

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24 *Ibid.*, at 72-73 and 77-78, ¶199-200 and 213-214.

B. The ARSIWA is universally recognized as applicable irrespective of the primary rules breached. It does not solely apply to specific circumstances in which the primary rules themselves contain secondary rules that will govern breaches.

32. It must be emphasized that the ARSIWA is highly regarded as the unified regime of State responsibility, expressing the core ideas of responsibility applicable to the breach of any obligations of States.

33. It is also recognized, as it is in fact provided for in Article 55 of the ARSIWA, that for self-contained regimes – that is, in which primary rules likewise contain their own set of secondary rules applicable to breaches of the primary rules, such as the World Trade Organization (WTO) agreements – the ARSIWA will normally not apply. This is consistent with the rule on *lex specialis derogat legi generali.*

34. Indeed, the UNFCCC, *Kyoto Protocol, Paris Agreement* and all other related agreements entered into during the Conference of Parties for climate change do not contain any set of secondary rules that either provide for legal consequences when commitments and obligations therein are not met or that defines State responsibility. Thus, such climate change-related agreements by themselves cannot be considered as self-contained regimes in which the rule on *lex specialis derogat legi generali* will be made to apply.

35. Moreover, the UNGA has specifically used the phrase "*legal consequences*" which this Court, in its advisory opinion in *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965,*[25] understands as a reference to State conduct that is deemed as an internationally wrongful act that gives rise to a State obligation of cessation.[26]

36. Relevantly, the ECtHR, in examining the claims brought before it in *Verein Klimaseniorinnen Schweiz and Others vs. Switzerland,*[27] applied ARSIWA in determining that Switzerland's failure to comply with its *Paris Agreement* commitments relative to its anthropogenic GHG emissions was an omission for which Switzerland must be held accountable, thus:

> 442. For its part, the Court notes that while climate change is undoubtedly a global phenomenon which should be addressed at the global level by the community of States, the global climate regime established under the UNFCCC rests on the principle of common but differentiated responsibilities and respective capabilities of States (Article 3 § 1). This principle has been reaffirmed in the Paris Agreement (Article 2 § 2) and endorsed in the Glasgow Climate Pact (cited above, paragraph 18) as well as in the Sharm el-Sheikh Implementation Plan (cited above, paragraph 12). **It follows, therefore, that**

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25 Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, 2019 I.C.J. Reports 95 (25 February 2019).
26 *Ibid.*, at 95, ¶ 175-182.
27 *Supra*, note 13.

> **each State has its own share of responsibilities to take measures to tackle climate change and that the taking of those measures is determined by the State's own capabilities rather than by any specific action (or omission) of any other State** (see *Duarte Agostinho and Others*, cited above, §§ 202-03). The Court considers that a respondent State should not evade its responsibility by pointing to the responsibility of other States, whether Contracting Parties to the Convention or not.
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> 443. **This position is consistent with the Court's approach in cases involving a concurrent responsibility of States for alleged breaches of Convention rights, where each State can be held accountable for its share of the responsibility for the breach in question** (see, albeit in other contexts, *M.S.S. v. Belgium and Greece*, cited above, §§ 264 and 367, and *Razvozzhayev v. Russia and Ukraine and Udaltsov v. Russia*, nos. 75734/12 and 2 others, §§ 160-61 and 179-81, 19 November 2019). **It is also consistent with the principles of international law relating to the plurality of responsible States, according to which the responsibility of each State is determined individually, on the basis of its own conduct and by reference to its own international obligations (see ILC, Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, Commentary on Article 47, paragraphs 6 and 8).** Similarly, the alleged infringement of rights under the Convention through harm arising from GHG emissions globally and the acts and omissions on the part of multiple States in combating the adverse effects of climate change may engage the responsibility of each Contracting Party, subject to it having jurisdiction within the meaning of Article 1 of the Convention (see *Duarte Agostinho and Others*, cited above). Indeed, given that the Article 1 jurisdiction is principally territorial, each State has its own responsibilities within its own territorial jurisdiction in respect of climate change.[28] (emphasis added)

37. Accordingly, the Philippines respectfully reiterates its stand that acts or omissions that do not faithfully conform to a State's international obligations constitute a breach of an obligation. Under international law, such breach is considered as an internationally wrongful act that will trigger State responsibility as well as the State's concomitant obligation to immediately cease the wrongful conduct and make equitable and full reparation for the injury caused. Thus, States affected by an internationally wrongful act for harm arising from anthropogenic GHG emissions may demand the remedial and reparatory actions under the ARSIWA.

C. There is no forum shopping and no fragmentation of international law.

38. An argument is also raised that the UNGA, in coming before this Court, has engaged in forum shopping and runs the peril of causing fragmentation in international law in

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[28] *Ibid.*, at 175, ¶ 442-443.

view of the pendency of the advisory opinion proceedings before the Inter-American Court on Human Rights (IACHR), and the recently concluded advisory opinion of the ITLOS, on similar questions.

39. The Philippines is of the position, however, that there is no risk of forum shopping or fragmentation of international law because an advisory opinion is not a case in which a "decision" is rendered, thereby creating a binding force that is contemplated by Article 59 of the ICJ Statute. Advisory opinions do not have parties, do not bind States and do not contain *dispositifs* or operative clauses, as these only involve "replies" to the propounded questions.[29]

40. If at all, an advisory opinion in the present context – whether issued by the IACHR, ITLOS or this Court – sets out, expounds on, and lays down the multifarious obligations of States in respect of climate change under international law which will bolster the UNGA's ability to address urgent climate change concerns, since an advisory opinion provides legal guidance to the relevant actors and factors in the fight against climate change.

41. Moreover, rather than serving to fragment international law, an advisory opinion, while non-binding, can become the basis of a unified formulation of judicial decisions on contentious cases or in the codification of conventions on international law and can serve to recognize and express in no uncertain terms, customary international law that has already ripened in accordance with established State practice and *opinio juris*.

D. The obligations not to cause transboundary harm and to exercise due diligence are well-established fundamental principles in customary international law.

42. Some States submit that there is no customary international law duty to not cause transboundary harm and to exercise due diligence in the context of climate change and the environment.

43. The Philippines underscores its position that the obligations not to cause transboundary harm and to exercise due diligence have long been accepted as fundamental principles in customary international law that will govern the level of care that States must exercise.

44. Verily, while it is conceded that all States and entities within their respective territories contribute to the emission of anthropogenic GHGs, the obligations not to cause transboundary harm and to exercise due diligence allow for actions to be taken to protect the

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[29] Sthoeger E. How do States React to Advisory Opinions? Rejection, Implementation, and what Lies in Between. *AJIL Unbound.* 2023;117:292-297. doi:10.1017/aju.2023.49

environment at an early stage so as to ensure that the activities within their jurisdiction or control do not cause damage to the territories of other States.

45. These State obligations have, in fact, found their way into important instruments and policy documents, such as Principle 21 of the *Stockholm Declaration (1972)*,[30] Principle 2 of the *1992 Rio Declaration*[31] Article 3 of the *1992 Convention on Biological Diversity*,[32] Recital 8 of the Preamble of the UNFCCC,[33] and paragraph 2, Article 194 of the UNCLOS.[34]

46. In the landmark case of *Trail Smelter*,[35] an environmental case that preceded the UNFCCC, *Kyoto Protocol*, and *Paris Agreement*, the tribunal therein first enunciated "the fundamental principles of no harm and the obligation to prevent and abate transboundary environmental interference causing significant harm."[36]

47. Then, in *Corfu Channel*,[37] this Court specifically dealt with the question of international responsibility of a State not only for its own acts but also for the acts of other entities.[38] This Court declared therein that there were "general and well-recognized principles of international law" concerning "every State's obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States."[39]

48. Moreover, this Court, in its Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*, recognized that "[t]he existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment."[40]

49. Then, in the *Iron Rhine Arbitral Case*,[41] the Permanent Court of Arbitration (PCA) declared that the duty of prevention of transboundary harm is now a "principle of

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30 "Principle 21. States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

31 "Principle 2. States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

32 "Article 3. States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

33 "Recalling also that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

34 "Article 194, Par. 2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention."

35 Trail Smelter Case (U.S.A./Canada), Merits, Award, 1941 (III) R.I.A.A. 1905, at 1965 (16 April 1938 & 11 March 1941) (hereinafter Trail Smelter).

36 Trail Smelter, 1941 (III) R.I.A.A.

37 The Corfu Channel Case (United Kingdom v. Albania), Merits, Judgment, 1949 I.C.J. Reports 22 (09 April 1949) (hereinafter Corfu Channel).

38 Corfu Channel, 1949 I.C.J.

39 *Ibid.*

40 Nuclear Weapons Advisory Opinion, 1996 I.C.J., ¶ 29.

41 Award in the Arbitration regarding the Iron Rhine ("Ijzeren Rijn") Railway between the Kingdom of Belgium and the Kingdom of Netherlands, Merits, Decision, 2005 (XXVII) R.I.A.A. 35, ¶ 222 (24 May 2005).

general international law."[42] The same principle of general international law was reiterated in several international cases such as in the *Pulp Mills on The River Uruguay,*[43] and the *Dispute Over the Status and Use of the Waters of Silala.*[44]

50. Lastly, in the very recent advisory opinion of the ITLOS in the ITLOS/COSIS *Advisory Opinion*, the ITLOS stressed the need to take all necessary measures not to cause transboundary harm and to exercise due diligence, thus:

> 254. The obligation under article 194, paragraph 2, of the Convention requires States to take all measures necessary to ensure that activities under their jurisdiction do not cause damage by pollution to other States and their environment and that pollution arising from their activities does not spread beyond the limits of their national jurisdiction. The Tribunal considers that this obligation is an obligation of due diligence for the same reason stated in the context of the obligation under article 194, paragraph 1. The Tribunal recalls that the Seabed Disputes Chamber in the *Area Advisory Opinion* referred to article 194, paragraph 2, as an example of such obligation (see *Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011,* p. 10, at p. 42, para. 113).
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> xxx xxx xxx
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> 258. To conclude, article 194, paragraph 2, of the Convention imposes upon States Parties a particular obligation applicable to the transboundary setting in addition to the obligation to prevent, reduce and control marine pollution from anthropogenic GHG emissions. **Under this provision, State Parties have the specific obligation to take all measures necessary to ensure that anthropogenic GHG emissions under their jurisdiction or control do not cause damage to other States and their environment, and that pollution from such emissions under their jurisdiction or control do not spread beyond the areas where they exercise sovereign rights. It is an obligation of due diligence. The standard of due diligence under article 194, paragraph 2, can be even more stringent than that under article 194, paragraph 1, because of the nature of transboundary pollution.** (emphasis added)

E. The UN Charter and the International Human Rights framework interplay with the Climate Change regime.

51. There are submissions that interpose the position that the breadth of human rights conventions and agreements can neither generate obligations nor rights in respect to climate change and the environment. Specifically, it is claimed that the protection of the

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42 *Ibid.*

43 Pulp Mills, 2010 I.C.J., at 55-56, ¶ 101.

44 Dispute over the Status and Use of the Waters of Silala (Chile v Bolivia), Merits, Judgement 2022 I.C.J. Reports 614, at 648-649. ¶ 99 (01 December 2002) (hereinafter Silala Case).

climate system and other parts of the environment, specifically as it relates to anthropogenic GHG emissions, is not included as a distinct right or obligation in human rights instruments.

52. The Philippines respectfully begs to differ. It strongly reiterates its stand that the provisions of the UN Charter and international human rights law are relevant and material in the interplay of rights and obligations in respect to the environment and climate change.

53. The UN Charter[45] is a crucial starting point in considering international law obligations and consequences arising from climate change. It is an instrument that many consider as world constitution[46] that has maintained its preeminent position in the hierarchy of norms[47] and has sought to have non-State parties observe its legal rules.[48]

54. Meanwhile, the *Universal Declaration of Human Rights* (UDHR),[49] *International Covenant on Civil and Political Rights* (ICCPR),[50] *International Covenant on Economic, Social and Cultural Rights* (ICESCR)[51] comprise the International Bill of Rights. The ICCPR and ICESCR are treaties which are binding upon State parties which ratified, signed or acceded thereto. The rights stated therein are fundamental rights of all races and nationalities, present and future generations alike.

i. *The UN Charter.*

55. In the words of former President of the UNGA Carlos P. Romulo, a noted Filipino diplomat, and drafter and original signatory to the UN Charter, the UN Charter "has come to occupy a central position in the complex and delicately balanced structure of international relations,"[52] as it has created the pillars of global governance and justice.

56. Enshrined in the UN Charter are norms of State conduct that are relevant to the issue of international legal obligations vis-à-vis the climate change crisis. The UN Charter likewise provides the legal authority and basis for a possible legal forum to adjudicate violations of climate change norms.

57. Indeed, when the UN Charter was drafted, the climate change crisis was not yet the existential issue that it is today. The grave urgency and magnitude of climate change crisis should be considered, in the words of Judge Charles de Visscher in his dissent in the

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45 The Charter of the United Nations, 1 UNTS XVI.

46 Macdonald, R. J. (2000). The Charter of the United Nations as World Constitution. International Law Studies Series. US Naval War College, 75, 263-300.

47 Article 103 of the UN Charter provides: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." The Charter of the United Nations, 1 UNTS XVI.

48 Art. 2(6) of the UN Charter provides: "The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as maybe necessary for the maintenance of international peace and security." The Charter of the United Nations, 1 UNTS XVI.

49 Universal Declaration of Human Rights, G.A. Res. 217 (III)A, U.N. Doc. No. A/RES/217 A (III) (10 December 1948).

50 International Covenant on Civil and Political Rights, *adopted* 16 December 1966, 999 U.N.T.S. 171. (Hereinafter, ICCPR)

51 International Covenant on Economic, Social and Cultural Rights, *adopted* 16 December 1966, 993 U.N.T.S. 3. (Hereinafter, ICESCR)

52 Romulo, C. P. (1962). The United Nations Today. Philippine International Law Journal, 1(4), 520.

International Status of South West Africa[53] as *"the unforeseen and, indeed, the unforeseeable"*[54] that the UN Charter must not ignore and must, with utmost haste, deal with and address.

a) The UN Charter, Climate Change and Peace and Security.

58. The Philippines submits that the UN has been entrusted with the highest responsibility of maintaining and strengthening international peace and security as it is "conceived as a world political forum in which all States, large and small, regardless of their social system, could combine their efforts with a view to working out viable solutions for the major problems confronting mankind today."[55]

59. Article 1(1) of the UN Charter[56] specifically details that the UN and its State parties have the obligation to maintain international peace and security. This is even more so in the case of least developed and developing countries where climate change poses a significant threat to their peace and security. The *Report of the Secretary-General on Climate Change and its Possible Security Implications* emphasized that:

> Where climate change threats to human well-being are expected to be severe, particularly where people are especially vulnerable because of low levels of human development and weak institutions of governance, the security implications are apt to be most pronounced, including the possibility of social and political tensions and of armed conflicts.[57]

60. Climate change, as a precursor or aggravator of tensions or conflict, is developing its own identity. Dr. Kirsten Davies and Thomas Riddle, in their article entitled *The Warming War: How Climate Change is Creating Threats to International Peace and Security*,[58] characterized the nexus between climate change and security as the "Warming War" by saying that:

> The Warming War term encompasses how climate change is undermining global stability by influencing resource-driven conflict, loss of territory through sea level rise, and mass-migration. The term has arisen as developed states and those in transition have placed pressures on the environment through the emissions intensive process of industrialization.[59]

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53 Dissenting Opinion of Judge Charles de Visscher, International Status of South West Africa, 11 July 1950, I.C.J.
54 *Ibid.*
55 Kutakov, L. (1972). United Nations and the Strengthening of International Peace and Security, The UN Monthly Chronicle, 9(11) at 99.
56 Article 1(1) of the Charter provides as one of its purposes "To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace." The Charter of the United Nations, 1 UNTS XVI.
57 A/64/350, 11 September 2009, Par. 12.
58 Davies, K., & Riddell, T. (2017). The Warming War: How Climate Change is Creating Threats to International Peace and Security. Georgetown Environmental Law Review, 30(1).
59 *Ibid.*, at 47-48.

61. Undeniably, the alarming rate with which the Earth is warming and the resulting changes to the natural environment pose numerous and significant threats to international peace and security.[60] Increased competition for resources, like fertile land and fresh water, is already disrupting societies and uprooting entire communities and exacerbating current conflicts and fueling new ones.[61]

62. A stark example is the violent conflict in Darfur, a region in Western Sudan. The *2007 Synthesis Report Sudan Post-Conflict Environmental Assessment*[62] of the United Nations Environmental Program (UNEP) linked climate change-induced food insecurity, as manifested in the increasing scarcity of water and decline in crop productivity, as an exacerbating factor in the already violent conflict and tensions in Darfur. Thus, former UN Secretary General Ban Ki Moon, speaking on the causality between climate change and the conflict in Darfur, stated that "[a]mid the diverse social and political causes, the Darfur conflict began as an ecological crisis, arising at least in part from climate change."[63]

63. Further, alarming estimates of the potential scope of forced migration due to climate change[64] have changed the environmental landscape the world over. The rising levels of the oceans, for example, will inundate islands of low-lying coastal States and potentially shift maritime boundaries.[65] This is especially true for countries that have not yet enacted laws defining their maritime boundaries or have not yet delimited their overlapping claims with other coastal States.

64. A strong causality exists, therefore, between the sea level rise and peace and security as the former will impact maritime limits and boundaries.[66] The potential loss of maritime boundaries as a result of sea level rise will inevitably lead to conflicts in fisheries and other marine resources.[67] More importantly, it has the potential of heavily influencing the stability of territorial boundaries[68] and trigger armed conflict.[69]

65. This premise is scientifically supported by the *Intergovernmental Panel on Climate Change* (IPCC) *2023 Synthesis Report*[70] which found that in regard to human systems, climate change has a direct impact on physical water availability, agriculture/crop production, animal and livestock health and productivity, and fisheries yield and aquaculture production. In

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60 Leroy, M., Gebresenbet, F. (2013). Science, Facts and Fears: The Debate on Climate Change and Security. Climate Change: International Law and Global Governance. Ruppel, O.C., Poschman, C., Rupple-Schlichting, K., eds. Nomos Verlagsgesellschaft, 685-712.

61 Explainer: How Is the Climate Crisis Impacting Conflict and Peace? Conciliation Resources, 2021

62 United Nations Environment Programme. Synthesis Report Sudan Post-Conflict Environmental Assessment. (2007)

63 'Darfur conflict heralds era of wars triggered by climate change, UN report warns' The Guardian (23 June 2017).

64 Burkett, M. (2001). The Nation Ex-Situ: On Climate Change, Deterritorialized Nationhood and the Post-Climate Era. Climate Law 2/1. 345-374.

65 Caron, D.D. (2008) Climate Change, Sea Level Rise and the Coming Uncertainty in Oceanic Boundaries: A Proposal to Avoid Conflict, in Maritime Boundary Disputes, Settlement Processes and the Law of the Sea. Seoung-Yong Hong & Jon M. Van Dyke eds.

66 Snjólaug Árnadóttir. (2021). Climate Change and Maritime Boundaries. Cambridge University Press, 225.

67 Redgwell, C. (2012). UNCLOS and Climate Change. American Society of International Law Proceedings, 106(1), 406-409.

68 Anggadi, F. (2022). What States Say and Do About Legal Stability and Maritime Zones, and Why It Matters. International & Comparative Law Quarterly, 71/4. 767 - 798.

69 Arnadottir, S. Climate Change and Maritime Boundaries Legal Consequences for Sea Level Rise. Cambridge University Press.

70 Intergovernmental Panel on Climate Change, *Summary for Policymakers, 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*, at 1-34, doi: 10.59327/IPCC/AR6-9789291691647.001 (19 March 2023).

addition, the rise in global warming also increased infectious diseases, has caused heat, malnutrition and harm from wildfire on the population, has an adverse effect on mental health, and has caused displacement of people. Losses and damage on cities and infrastructure caused by inland flooding, storm damage in coastal areas, damages to infrastructure, and damages to key economic sectors have also been linked to climate change. Finally, climate-driven changes in terrestrial, freshwater, and ocean ecosystems have similarly been observed.[71]

66. This global climate crisis is clearly a key risk to international peace and stability,[72] placing climate change squarely within the legal framework of the UN Charter.

b) Obligation to Respect Territorial Integrity.

67. The loss of territory caused by climate change can be viewed from the UN Charter's mandate of maintaining international peace and security and the UN Charter's norms on the maintenance of territorial integrity as anthropogenic emissions of GHG cause the sea level to rise.[73] Sea level rise can result in lost territory, often permanent.[74]

68. The Philippines submits that viewed through the lens of all States' obligation to respect the territorial integrity of other States, as provided in Article 2 of the UN Charter,[75] the possible loss of territory through climate change should be averted and timely addressed.

69. In truth, the loss of a State's territory due to climate change is so much more dangerous than a loss on account of an invasion, or loss through the use of force, as there is hardly any manifest defense that can be mounted against the loss of territory caused by climate change.

70. Such loss is also of a permanent nature. Sea level rise caused by climate change, unless timely and sufficiently addressed, is akin to an irresistible invading force that will keep on undermining a State's territory with no concept of retreat or surrender.

71. As aptly observed by the President of the UN Security Council (UNSC) during its 6587th meeting in 2011 on the impact of climate change on international peace and security, the "possible security implications of loss of territory of some States caused by sea-level-rise may arise, in particular in small low-lying island States."[76]

72. Verily, loss of territory cannot be seen in the abstract. Small island States stand to lose precious land, and in some cases, the same could be completely and permanently

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71 *Id.*, at 7.

72 Climate & Peace. Climate-Diplomacy. https://climate-diplomacy.org/exhibition/climate-peace.

73 Parker, C. L. (2014). Health Impacts of Sea-Level Rise. Planning & Environmental Law, 66(5), 8.

74 Jain, A. (2014). The 21st Century Atlantis: the International Law of Statehood and Climate Change-Induced Loss of Territory. Stanford Journal of International Law, 50(1), 1-52.

75 Article 2, of the Charter provides: "The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles . . . (4) All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." 1 UNTS XVI.

76 U.N. Security Council, *Statement by the President of the Security Council*, p. 1, S/PRST/2011/15 (20 July 2011).

submerged. Archipelagic States that have small islands as part of their territory can suffer the same fate. People and communities who have lived for generations along coastlines are in grave danger of losing their land, their livelihood, and the very foundation of their national identity.

c) *Sovereignty, Independence and the Right to Self-Determination.*

73. With the loss of territory comes the concomitant loss of sovereignty and of the right to self-determination. Such occurrence will directly erode the collective consensus enshrined in the UN Charter that national sovereignty[77] and independence[78] will be respected. Territorial sovereignty, after all, is a defining principle of inter-State relations and a foundation of the world order.

74. The violation of a State's sovereignty, independence and right to self-determination is most evident in Small Island Developing States and Least Developed Countries[79] which are severely at risk of losing entire territories and population due to alarming sea level rises that will eventually submerge their entire land.

75. The Philippines, as an archipelagic state, is likewise susceptible to the same risk considering that it is projected that 16.9 percent of the Philippines' islands will be submerged under extreme scenarios of sea level rise by 2100.[80]

d) *The UNSC's Obligation to Take Action.*

76. Chapter VII of the UN Charter[81] covers a broad array of activities that may be deemed as a breach of, or threat to, peace[82] over which the UNSC is, pursuant to Article 24 of the UN Charter, charged to eliminate so as to maintain international peace and security.

77. To be sure, climate change is no longer just an environmental problem as it is now also recognized as a security issue.[83] In fact, as early as 1992, the President of the UNSC, speaking on behalf of its members, said that "[t]he absence of war and military conflicts amongst States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security."[84]

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77 Czernecki, J. L. (2003). The United Nations' Paradox: The Battle Between Humanitarian Intervention and State Sovereignty. Duquesne Law Review, 41(2), 393.

78 Article 2(4), 1 UNTS XVI.

79 Office of the High Commissioner for Human Rights, *Understanding Human Rights and Climate Change*, at 14, available at www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf (last accessed 07 December2023).

80 Céline Bellard, Camille Leclercand Franck Courchamp, *Impact of Sea Level Rise on the 10 Insular Biodiversity Hotspots*, 2013,203–212.*Accessed at:* https://onlinelibrary.wiley.com/doi/abs/10.1111/geb.12093 (Last Accessed: 13 December 2023)

81 Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression, The Charter of the United Nations, 1 UNTS XVI.

82 M. McDougal, (1989) Law and Peace, 18 Denver Journal of International Law and Policy 1.

83 Sindico, F. (2007). Climate Change: A Security (Council) Issue? Carbon & Climate Law Review, 1(1), 33.

84 S/23500, 31 January 1992.

78. In 2017, the UNSC acknowledged the link between climate change and security, saying that it "[r]ecognize[d] the adverse effects of climate change and ecological changes among other factors on the stability of the region, including water scarcity, drought, desertification, land degradation, and food insecurity, and emphasizes the need for adequate risk assessments and risk management strategies by governments and the United Nations relating to these factors."[85]

79. Then again, during the UNSC meeting held in June 2023, most speakers recognized that the climate crisis is a threat to global peace and security and agreed that the UNSC must ramp up its efforts to lessen the risk of conflicts emanating from rising sea levels, droughts, floods and other climate-related events.[86]

80. In view of the foregoing, the Philippines submits that the climate change crisis is one such breach of, and threat to, peace that may be brought before the UNSC. Such course of action is not novel as some countries have proposed specific actions that the UNSC should take in respect of the environment. These proposals ranged from the creation of an environmental adviser within the UNSC,[87] to the review of the mandate of the UNSC to include environmental security,[88] to involving the UNSC in the work of other UN agencies dealing with climate change and its deleterious effects.[89]

81. To this end, the Philippines proposes that, based on the mandate and authority given to the UNSC by the UN Charter, and given that climate change is intricately linked to the maintenance of peace and security, the UNSC can contribute to climate justice by creating *ad hoc* tribunals to address legal claims of injured States.

82. There are precedents in the creation of *ad hoc* tribunals by the UNSC, especially in situations that cry out for justice and pose a direct threat to the peace and security of mankind. In fact, the UNSC can and has created more institutional law and precedents than any other UN organ.[90]

83. Thus, the UNSC has, in the past, established two (2) *ad hoc* criminal tribunals, namely: the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The UN has also been involved in various

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85 UNSC Resolution 2349 (2017), para 26.

86 "With Climate Crisis Generating Growing Threats to Global Peace, Security Council Must Ramp Up Efforts, Lessen Risk of Conflicts, Speakers Stress in Open Debate," https://press.un.org/en/2023/sc15318.doc.htm, accessed 23 November 2023.

87 *See* SC/9000, Statement of Slovakia, p. 4; SC/9000, Statement of France, p. 7; SC/9000, Statement of Germany, p. 11. https://press.un.org/en/2007/sc9000.doc.htm accessed 2 December 2023.

88 *See* SC/9000, Statement of the United Kingdom, p. 10; SC/9000, Statement of Congo, p. 5; SC/9000, Statement of Panama, p. 9. https://press.un.org/en/2007/sc9000.doc.htm accessed 2 December 2023.

89 *See* SC/9000, Statement of France, p. 7; SC/9000, Statement of Germany, p. 11. https://press.un.org/en/2007/sc9000.doc.htm accessed 2 December 2023.

90 Kahgan, C. (1997). Table of Content: Jus Cogens and the Inherent Right to Self Defense. ILSA Journal of International & Comparative Law. 3/767. 796.

ways with the Special Court for Sierra Leone (SCSL), the Extraordinary Chambers in the Courts of Cambodia (ECCC), and others.[91]

84. Therefore, considering that the climate change issue is interlinked to the existence of humanity, there is no alternative but to come to a common universal consensus to address, prevent and resolve such violations through legal means.[92] Thus, the Philippines proffers that, within the framework of norms established by the UN Charter, there would be no legal impediment for the UNSC to establish an *ad hoc* tribunal on climate change as it pertains to the maintenance of international peace and security and preservation of all States' respective sovereignty and territorial integrity.

ii. *International Human Rights Framework.*

85. The Philippines expresses its dissent to the claim of other States that the international human rights framework cannot generate obligations or rights relevant to climate change and the environment.

86. As early as the *1972 Stockholm Declaration,* efforts were made to explore and attempt to understand the interrelationship between human rights and environmental protection.[93] Much has happened since then, particularly in understanding the relationship between human rights and climate change.[94]

87. For the *Global Network for the Study of Human Rights and the Environment*, this link between climate change and human rights is even more crucial today as "it is clear that anthropogenic global warming is generating unprecedented pressures on the planet that require imaginative new approaches to law, politics and justice . . . human rights should form a central component of all responses to climate change."[95]

88. The Philippines holds the view that the human rights norms enshrined in the UN Charter create an obligation to protect and prohibit violation of human rights caused by climate change. Thus, it is submitted that there is now, in fact, a growing body of human rights norms related to the environment[96] which informs customary international law norms and general principles of international law on the juridical nexus between human rights and the climate change crisis.

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91 https://research.un.org/en/docs/law/courts, accessed 3 December 2023.

92 Hassan, D., & Khan, A. (2013). Climate-Change-Related Human Rights Violations. Environmental Policy and Law, 43(2), 85.

93 Shelton, D. (2006). Human Rights and the Environment: What Specific Environmental Rights Have Been Recognized. Denver Journal of International Law and Policy, 35(1), 129.

94 Defensor-Santiago, M. (1999). International Law with Philippine Cases and Materials and ASEAN Instruments. Manila, Central Professional Books, 302-304.

95 Davies, K., Adelman, S., Grear, A., Magallanes, C., Kerns, T., & Rajan, S. (2017). The Declaration on Human Rights and Climate Change: New Legal Tool for Global Policy Change. Journal of Human Rights and the Environment, 8(2), 218.

96 Voigt, C. and Grant, E. (2015). Editorial: The Legitimacy of Human Rights Courts in Environmental Disputes, in Journal of Human Rights and the Environment 6/2, 133.

89. In the Philippines, Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) advocates for a human rights-based approach in all climate change decisions and actions,[97] as climate change "negatively impacts people's rights to health, housing, water and food and for indigenous peoples, in particular, their right to self-determination and right to culture."[98]

90. In the Philippine context, its Commission on Human Rights' (CHR) report in the *Carbon Majors Case*[99] is a distinct example of the interlink between human rights and climate change. In said case, the Philippine CHR was petitioned to conduct an investigation into allegations that the top oil producers of the world, also known as the "carbon majors," are the largest anthropogenic CO2 and methane emitters in the world and are contributing, and knowingly continuing to contribute, harmful emissions thereby violating the human rights of Filipinos by causing climate change and ocean acidification. In declaring that the failure of the carbon majors to undertake human rights due diligence necessitates remediation, the Philippine CHR ratiocinated that:

> **2. All Entities within each Carbon Majors' Value chain may be compelled to Undertake Human Rights Due Diligence and Provide Remediation**
>
> **The corporate responsibility to refrain from contributing to climate change impacts that impair the full enjoyment of human rights extends not only to the whole group of companies of each Carbon Major in recognition of the enterprise theory of corporate personhood, but also to all business enterprises in each of the Carbon Majors' respective value chains. Accordingly, the carbon Majors and business enterprises that cause, contribute to or are linked to adverse climate-related human rights impacts, "need to know and be able to show" that they respect human rights.** This they do by undertaking a human rights due diligence process as set forth in Principles 16 to 21 of the UNGP.
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> xxx xxx xxx
>
> Business enterprises, including their value chains, doing business in, or by some other reason within the jurisdiction of, the Philippines, may be compelled to undertake human rights due diligence and held accountable for failure to remediate human rights abuses from their business operations. (emphasis supplied)

91. The ECtHR, on the other hand, in *Verein Klimaseniorinnen Schweiz and Others vs. Switzerland,*[100] which found that Article 8 of the European Convention on Human Rights encompasses a right for individuals to effective protection by the State authorities from the

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97 Statement of Tebtebba, a copy of which is hereto attached as **Annex "A."**

98 *Ibid.*

99 Philippines Human Rights Commission, In Re: National Inquiry on the Impact of Climate Change on the Human Rights of the Filipino People and the Responsibility therefor, if any, of the 'Carbon Majors', case nr. CHR-NI-2016-0001, Report of 6 May 2022.

100 *Supra,* note 22.

serious adverse effects of climate change on their lives, health, well-being and quality of life, declared that it is a contracting State's main duty to adopt, and to apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change, *viz.:*

> 544. As stated above, the Court already held long ago that the scope of protection under Article 8 of the Convention extends to adverse effects on human health, well-being and quality of life arising from various sources of environmental harm and risk of harm. Similarly, the Court derives from Article 8 a right for individuals to enjoy effective protection by the State authorities from serious adverse effects on their life, health, well-being and quality of life arising from the harmful effects and risks caused by climate change (see paragraph 519 above).
>
> 545. Accordingly, the State's obligation under Article 8 is to do its part to ensure such protection. In this context, the State's primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change. **This obligation flows from the causal relationship between climate change and the enjoyment of Convention rights, as noted in paragraphs 435 and 519 above, and the fact that the object and purpose of the Convention, as an instrument for the protection of human rights, requires that its provisions must be interpreted and applied such as to guarantee rights that are practical and effective, not theoretical and illusory** (see, for instance, *H.F. and Others v. France*, cited above, § 208 *in fine*; see also paragraph 440 above).
>
> **546. In line with the international commitments undertaken by the member States, most notably under the UNFCCC and the Paris Agreement, and the cogent scientific evidence provided, in particular, by the IPCC (see paragraphs 104-120 above), the Contracting States need to put in place the necessary regulations and measures aimed at preventing an increase in GHG concentrations in the Earth's atmosphere and a rise in global average temperature beyond levels capable of producing serious and irreversible adverse effects on human rights, notably the right to private and family life and home under Article 8 of the Convention.**
>
> 547. Bearing in mind that the positive obligations relating to the setting up of a regulatory framework must be geared to the specific features of the subject matter and the risks involved (see paragraphs 107-120 and 440 above) and that the global aims as to the need to limit the rise in global temperature, as set out in the Paris Agreement, must inform the formulation of domestic policies, it is obvious that the said aims cannot of themselves suffice as a criterion for any assessment of Convention compliance of individual Contracting Parties to the Convention in this area. This is because each individual State is called upon to define its own adequate pathway for reaching carbon neutrality, depending on

> the sources and levels of emissions and all other relevant factors within its jurisdiction.
>
> **548. It follows from the above considerations that effective respect for the rights protected by Article 8 of the Convention requires that each Contracting State undertake measures for the substantial and progressive reduction of their respective GHG emission levels, with a view to reaching net neutrality within, in principle, the next three decades.** In this context, in order for the measures to be effective, it is incumbent on the public authorities to act in good time, in an appropriate and consistent manner (see, *mutatis mutandis*, *Georgel and Georgeta Stoicescu v. Romania*, no. 9718/03, § 59, 26 July 2011). (emphasis added)

F. *The principle of intergenerational equity is a recognized general principle of international law.*

92. Some States express doubts on the concept of intergenerational equity, specifically on conferring specific justiciable rights for future generations as they are an indeterminate class of peoples and individuals who currently have no *locus standi.*

93. The Philippines begs to disagree. It reaffirms its position in its *Written Statement* that respect for future generations is considered a general principle of law. The principle of intergenerational equity recognizes that resources should be used by the present generation in a manner that will sustainably maintain its abundance and quality for the benefit of future generations.

94. In the Philippine setting, the *locus standi* of future generations has been upheld in the landmark *Children's Case of the Philippines*,[101] wherein the Philippine Supreme Court equated the principle of intergenerational equity to the fundamental right to a balanced and healthful ecology. Thus:

> xxx. Needless to say, every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology. Put a little differently, the minors' assertion of their right to a sound environment constitutes, at the same time, the performance of their obligation to ensure the protection of that right for the generations to come.
>
> xxx xxx xxx
>
> While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation

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101 *Oposa vs. Factoran*, G.R. No. 101083, 30 July 1993.

> and self-perpetuation — aptly and fittingly stressed by the petitioners — the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come — generations which stand to inherit nothing but parched earth incapable of sustaining life.[102]

95. Similarly, in *Metroprolitan Manila Development Authority, et al. vs. Concerned Citizens of Manila Bay, et al.,*[103] the Philippine Supreme Court declared anew that despite a purported absence of clear legal provisions giving rise to a duty to protect the environment, it is still incumbent upon the government and its agents to undertake measures to address environmental degradation since it is an obligation owing to the future generations:

> In the light of the ongoing environmental degradation, the Court wishes to emphasize the extreme necessity for all concerned executive departments and agencies to immediately act and discharge their respective official duties and obligations. Indeed, time is of the essence; hence, there is a need to set timetables for the performance and completion of the tasks, some of them as defined for them by law and the nature of their respective offices and mandates.
>
> The importance of the Manila Bay as a sea resource, playground, and as a historical landmark cannot be over-emphasized. It is not yet too late in the day to restore the Manila Bay to its former splendor and bring back the plants and sea life that once thrived in its blue waters. But the tasks ahead, daunting as they may be, could only be accomplished if those mandated, with the help and cooperation of all civic-minded individuals, would put their minds to these tasks and take responsibility. This means that the State, through petitioners, has to take the lead in the preservation and protection of the Manila Bay.
>
> The era of delays, procrastination, and *ad hoc* measures is over. Petitioners must transcend their limitations, real or imaginary, and buckle down to work before the problem at hand becomes unmanageable. Thus, we must reiterate that different government agencies and instrumentalities cannot shirk from their mandates; they must perform their basic functions in cleaning up and rehabilitating the Manila Bay. We are disturbed by petitioners' hiding behind two untenable claims: (1) that there ought to be a specific pollution incident

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102 *Id.*

103 *Metroprolitan Manila Development Authority, et al. vs. Concerned Citizens of Manila Bay, et al.,* GR No. 17147-48, 18 December 2008.

> before they are required to act; and (2) that the cleanup of the bay is a discretionary duty.
>
> RA 9003 is a sweeping piece of legislation enacted to radically transform and improve waste management. It implements Sec. 16, Art. II of the 1987 Constitution, which explicitly provides that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.
>
> So it was that in *Oposa v. Factoran, Jr.* the Court stated that the right to a balanced and healthful ecology need not even be written in the Constitution for it is assumed, like other civil and political rights guaranteed in the Bill of Rights, to exist from the inception of mankind and it is an issue of transcendental importance with intergenerational implications. **Even assuming the absence of a categorical legal provision specifically prodding petitioners to clean up the bay, they and the men and women representing them cannot escape their obligation to future generations of Filipinos to keep the waters of the Manila Bay clean and clear as humanly as possible. Anything less would be a betrayal of the trust reposed in them.** (emphasis added)

96. To this end, the Philippines' *Council for the Welfare of Children* reminds that "climate change poses substantial risks to children's well-being and future, as evident from the observations and concerns shared during its community consultations on environmental issues. Urgent action is required to address these challenges and safeguard the rights of children."[104]

97. In the international realm, the principle of intergenerational equity finds its beginning in the 1972 Stockholm Declaration[105] wherein it was proclaimed that "[t]o defend and improve the human environment for present and future generations has become an imperative goal for mankind – a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of world-wide economic and social development."[106] This principle has, since then, become a strong precept of the sustainable development framework.

98. In 1988, the UNGA acknowledged that "certain human activities could change global climate patterns, threatening present and future generations with potentially severe economic and social consequences," thereby recognizing the right of the future generations to inherit the same diversity in natural and cultural resources. [107]

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104 *Statement of the Council for the Welfare of Children (CWC) on the effects of Climate Change on Children,* a copy of which is hereto attached as **Annex "B."**

105 *Declaration of the United Nations Conference on the Human Environment,* U.N. Doc. A/RES/2994(XXVII) (16 June 1972) (hereinafter the Stockholm Declaration).

106 *Ibid.*

107 *National Inquiry on Climate Change Report,* Commission on Human Rights of the Philippines, 2022; can be accessed at: https://www.ciel.org/wp-content/uploads/2023/02/CHRP-NICC-Report-2022.pdf (Last accessed: 07 March 2024).

99. This principle is likewise a founding principle of the UNFCCC as evinced by Article 3 thereof that declares the need to "protect the climate system for the benefit of present and future generations of humankind." The same was affirmed as a guiding principle in climate change actions in the *Paris Agreement* preamble.

100. Of recent vintage is the *Maastricht Principles on the Human Rights of Future Generations*[108] which was adopted and previewed alongside the UN Human Rights Council on 21 June 2023. The principles embodied therein are rooted upon the finding that "the body of existing human rights law does not have temporal limitations: States' legal human rights obligations also require them to protect the human rights of future generations."[109] The preamble of the *Maastricht Principle* states, in part, that:

> III. Human generations exist within an unbroken continuum that is continually renewed and redefined as untold new members join the living human community. Any treatment of human generations and their respective rights must recognize and reflect this continuum.
>
> IV. The human rights of future generations form an essential dimension of humankind's duty to uphold the inherent dignity, equality, and inalienable rights of all.
>
> V. Decisions being taken by those currently living can affect the lives and rights of those born years, decades, or many centuries in the future. In recent decades, the need to recognize the intergenerational dimensions of present conduct have taken on increasing urgency. Humanity, the Earth on which we live, the natural systems of which we are but one part, and our political, social, cultural and economic systems, are in the midst of profound, rapid, and perilous change at humanity's own hands.

101. The pronouncement of the Philippine Supreme Court in the widely celebrated *Children's Case of the Philippines*[110] that "every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology" has found its way into international law as seen in Principles 5 and 10 of the *Maastricht Principles*:

> 5. Universality and Indivisibility of Human Rights
> a) All human beings – in the past, present and future – are equal in dignity and entitled to the full and equal enjoyment of human rights.
>
> b) All human rights are universal, indivisible, interdependent and interrelated. Future generations are entitled to all individual and collective human rights, including but not limited to, civil and political rights, economic, social and cultural rights, the right to a clean, healthy and sustainable environment; the right to development; the right to self-determination; and the right to peace.

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108 https://www.rightsoffuturegenerations.org/the-principles (hereinafter the Maastricht Principles) (Last accessed: 17 June 2024).
109 https://www.ciel.org/news/legal-principles-shed-new-light-on-human-rights-of-future-generations/ (Last accessed: 17 June 2024).
110 *Supra*, note 101.

xxx xxx xxx

10. International Solidarity
a) All human beings, whether within present or future generations, are entitled to a social and international order in which rights and freedoms can be realized for all. Such an international order is only possible, now or in the future, if people, groups and States adopt the principle of international solidarity.

b) States have an individual and collective duty to recognize, respect and practice international solidarity in their relations with each other to ensure the rights of present and future generations, including the right to live in a clean, healthy and sustainable environment, and the rights of nature.

IV. Conclusion.

102. Indubitably, the matters raised before this Court for its advisory opinion neither involve a political dilemma nor a political question; they concern the effects of rapid climate change on the environment, the impact of which determines the future of all mankind. The right to a clean, healthy and sustainable environment is an inalienable human right. Hence, it is incumbent upon all States, peoples and organizations to help address and solve the present crisis.

103. The Philippines, thus, humbly reiterates that its submissions in its *Written Statement* and in the present Comment should be taken into account as part of this Court's answers to the questions raised by the UNGA in its request for an advisory opinion in UNGA *Resolution 77/276*.

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15 August 2024

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ANNEX "A"

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NGO in Special Consultative Status with the Economic and Social Council of the UN

The Imperative of Ensuring the Human Rights Based Approach in all Climate Change Decisions and Actions.

In its resolutions on human rights and climate change the Human Rights Council has repeatedly emphasized that the impacts of climate change "will be felt most acutely by those segments of the population who are already in a vulnerable situation." There is no question that indigenous peoples are one of those sectors of society who are highly vulnerable. This is why indigenous peoples actively advocated to ensure that the human rights-based approach should be at the center of climate change policies, programs and actions.

Most indigenous peoples live in environmentally fragile areas such as remote mountainous areas, low lying coastal areas, the Arctic which suffer serious disasters when climate change related events such as incessant rains and typhoons, rising sea waters, high temperatures, droughts and floods, among others Climate change is one of the worst forms of injustice and is there is no question that it is a human-rights issue. It negatively affects people's rights to health, housing, water and food and for indigenous peoples, in particular, their right to self-determination and right to culture. It also has indirect impacts as much needed resources fare diverted from crucial public services such as health, education and agrarian support to climate change adaptation and mitigation efforts .

Indigenous peoples in the Philippines have shared the direct impacts of climate change, which include severe land erosion because of the stronger typhoons which occur more frequently which has led to destruction of their crops, their houses. Many of them still do not have titles to their collective lands and territories and when they are forced to evacuate to safer grounds, they face the threat of having their lands taken over by vested interests after the disasters. Since their identities and cultures, as well as knowledge, are directly linked to their traditional lands, being deprived of these lands and territories lead to cultural displacement as the places which they consider sacred and where their deities and sacred spirits reside and where they perform their rituals. Being separated from the members of their communities also can lead to loss of their languages.

Their right to self-determination, which is to freely determine their political status and freely pursue their economic, social and cultural development, is also violated with these adverse climate change impacts. Many indigenous peoples still use their own customary governance systems, including customary laws, to govern their relationship with each other, with nature, and with their neighbors. Being displaced from their ancestral territories will drastically affect these as their governance, knowledge, and justice systems, some of which are place-based, will be undermined. They cannot continue to pursue their own visions and actions to implement their self-determined development.

Climate change exacerbates the gross inequalities between rich and poor states and between rich and poor people. Ensuring climate justice and enhancing respect, protection, and fulfillment of human rights are crucial imperatives that should be integral in all climate

change actions, decisions, and policies. Climate justice requires that climate action is consistent with existing human rights agreements, obligations, standards, and principles. This is what the human-rights based approach to climate change means. Meaningful participation in all climate change decisions and actions has to be ensured. Nationally-determined contributions to climate change developed by States should ensure such participation. Aside from active participation, indigenous peoples have to be primary beneficiaries of climate action, and if their rights are violated they must have access to effective remedies.

Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) fully supports the Advisory Opinion of the International Court of Justice on "the Obligation of States in Respect of Climate Change. It also thanks the Government of the Philippines through the Climate Change Commission for its written statement in support of this. We commit to continue working with state and non-state actors who are willing to ensure the integration of human rights in all climate change policies and actions.

VICTORIA TAULI-CORPUZ
Executive Director

ANNEX "B"

BAGONG PILIPINAS

Statement of the Council for the Welfare of Children (CWC) on the effects of Climate Change on Children

The Council for the Welfare of Children (CWC) acknowledges that climate change poses substantial risks to children's well-being and future, as evident from the observations and concerns shared during its community consultations on environmental issues. Urgent action is required to address these challenges and safeguard the rights of children.

Children across the Philippines have identified key environmental problems, including the destruction of marine life, excessive garbage, illegal logging, deforestation, poaching, and mining activities. These issues not only endanger the environment but also affect the health and safety of children and other living beings.

To address these challenges, the CWC emphasizes the importance of government intervention, stronger policy implementation, strengthening of partnerships with civil society organizations, and accountability for environmental damages. Local and national governments must prioritize environmental sustainability and allocate resources for advocacy, monitoring, and enforcement of laws.

Additionally, there is a need for increased education and awareness about climate change adaptation and mitigation (CCAM) among children and young people. The CWC supports initiatives that empower children to participate in meaningful conversations, policy-making processes, and climate actions. It also promotes the use of social media and other platforms to amplify children's voices and engage the wider community in CCAM efforts.

By working together as one society, we aspire to ensure a safe, sustainable and nurturing environment for our children. The CWC remains committed to supporting children's rights and advocating for policies and programs that address the impacts of climate change on children and their communities.

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