HAUSFELD
FOR THE CHALLENGE

CLIMATE IMPACT NEWSLETTER
YEAR IN REVIEW 2025

2025 was another momentous year for climate litigation, with landmark developments regarding the intersection of human rights and climate change litigation, corporate accountability, and government framework cases.

The impact of the recent advisory opinions from the ICJ and the IACtHR is beginning to be felt, with a recent decision from the Canadian courts and a petition to the Inter-American Commission on Human Rights regarding states' obligations on climate change. Separately, as we noted in our Summer Review, corporate compliance with climate obligations is also under increasing scrutiny, with an emphasis on accountability through mass tort claims and expanding greenwashing claims across sectors.

COP

The deadline for parties to communicate a new nationally determined contribution ("NDCs") fell this year, in accordance with the Paris Agreement; at the time of the Secretariat for the UNFCCC publishing its report, only 64 parties had complied with this requirement, covering a mere 30 per cent of total global emissions. However, by the start of December, ostensibly because of COP30, this rose to 121 new NDCs, covering 74% of global emissions.

At COP30, despite many states calling for a roadmap to phase out fossil fuels, the Mutirão Decision (the main outcome text of COP30) does not reference this. The first draft of the text included three options of how to implement the roadmap, with one option being *"no text"*. When the second draft text was published following discussions and negotiations, no reference was made to the roadmap at all, and this remained true of the final adopted text. This has been widely criticised, however negotiations will continue outside the COP process as part of a joint Colombian-Dutch initiative, who announced they would host the First International Conference on the Just Transition Away from Fossil Fuels in 2026.

The power that oil-rich countries have in influencing the outcome of key negotiations was also evident earlier this year, when a US-led group of countries (including Saudi Arabia, Russia, and China) voted to adjourn discussions to approve a landmark framework that was aimed at reducing emissions in the shipping industry.

Advisory Opinions from the ICJ and IACtHR

Earlier this year, the International Court of Justice ("ICJ") and the Inter-American Court of Human Rights ("IACtHR") published their landmark advisory opinions, which sit as a trio of advisory opinions on climate change (the May 2024 advisory opinion of the International Tribunal for the Law of the Sea being the third).

The ICJ Advisory Opinion focuses on obligations of states in respect of climate change, and the IACtHR Advisory Opinion sets out a framework for the 35 members of the Organisation of American States ("OAS") to protect human rights in addressing the climate emergency. Whilst the advisory opinions are not legally binding, they are persuasive sources of international legal interpretation, providing authoritative clarity on international customary norms and influence on domestic courts considering the same questions. Our full analysis of the ICJ Advisory Opinion summarises the key observations made by the ICJ and reflects on its potential impact on climate litigation.

The ICJ Advisory Opinion is already influencing domestic courts' approach to climate litigation. In September 2025, the Federal Court of Canada had regard to the ICJ's Advisory Opinion in the case of *Lho'Imggin v. Canada*, in which the claimant alleges the violation of constitutional and human rights of the Wet'suwet'en indigenous group owing to Canada's climate policy. The Federal Court stated that the ICJ's Advisory Opinion *"outlines key principles that may affect state conduct and has substantial persuasive legal authority since it emanates from the principal legal organ of the United Nations"* and that the courts may use the ICJ's reasoning to inform their own interpretation of the protections provided by domestic laws[1]. The ICJ Advisory Opinion does not establish new customary norms, but rather it connects a state's climate obligations to (i) a customary duty to prevent significant harm to the environment, (ii) a customary duty to cooperate for protection of the environment, and (iii) to human rights recognized under customary international law[2]. In concluding that the pleadings were deficient, the Federal Court provided a helpful reminder for those seeking to bring claims based on customary international law: that the ICJ Advisory Opinion does not relieve claimants of their obligation in evidencing general state practice and *opinio juris* – the belief of states that they have a legal duty or obligation to act in that way[3]. Of interest to countries with dualist legal systems (such as the UK) was the Federal Court's useful analysis of the applicability of international law in such frameworks; in concluding that it did not have the jurisdiction to adjudicate on whether Canada was infringing its obligations pursuant to the Paris Agreement, the Federal Court referenced the assertion in the ICJ Advisory Opinion that such responsibilities may be invoked by other countries.[4]

The ICJ Advisory Opinion has also been used to bolster a petition by young climate activists to the Inter-American Commission on Human Rights ("IACHR"), along with the IACtHR Advisory Opinion, alleging that the United States is violating their human rights as a result of its energy policies and practices. The petitioners are 15 of the youth activists who were plaintiffs to the *Juliana v United States* proceedings, represented by co-petitioner Our Children's Trust. This petition follows on from the Juliana v United States case, whereby 21 youth activists alleged the government of the United States had violated their constitutional rights to life, liberty, and property through their contributions to climate change.

Originally filed in 2015, the case was brought to an end earlier this year when the Supreme Court declined to hear an appeal by the claimant group, meaning proceedings through the federal courts had been exhausted. Whilst the findings of the IACHR are not legal in nature, they have jurisdiction within the OAS to request member states to take precautionary measures and present cases to the IACtHR; specifically, one of the requests for relief in the petition is for the IACHR to issue a country report which takes into account the law as set out in the ICJ Advisory Opinion and the IACtHR Advisory Opinion.

As foreshadowed in our Summer Review, we are already seeing how the ICJ Advisory Opinion and the IACtHR Advisory Opinion can be used in climate litigation to inform decisions and bolster the scope of arguments claimants can bring.

Corporate Climate Responsibility

2025 saw a landmark decision in respect of corporate liability for harm caused by climate change as a result of their operations: *Saúl Luciano Lliuya v RWE*. On the facts in this case, the court held that the claimant had failed to establish that there was a sufficiently high flood risk from the melting glaciers to cause damage to his property, however, the judgment confirmed that major carbon emitters could, in principle, be held liable under German law for climate-related harms. In particular, the judgment highlighted that the geographical distance between RWE's power plants and the claimant's property was not a barrier in itself to the claim.

Whilst this claim was specific to the liability of major carbon emitters under German law, it will be interesting to see how other claims draw parallels to the judgment. For example, the Swiss courts recently heard the case of *Asmania v Holcim*. In this case, four residents of the Indonesian island Pari are seeking to hold the Swiss concrete company Holcim liable for its contribution to global CO2 emissions, requesting (i) compensation for harm suffered, (ii) financial contributions to flood protections, and (iii) a reduction in emissions. Judgment in this case is pending following the main hearing which ended at the start of September. Statements made by the claimants following the conclusion of the main hearing as to the influence of the ICJ's Advisory Opinion give an insight into the arguments put forward at trial.

More recently, 43 farmers from the province of Sindh, Pakistan, have sent a formal notice to RWE and Heidelberg Materials, claiming that their role as major carbon emitters has contributed to damages suffered by this community as a result of flooding in 2022. The letter requests acknowledgment of liability and confirmation of their intention to compensate the farmers for the two lost seasons of their harvest of rice and wheat crops, with failure to do so likely to result in the claimants initiating legal proceedings. It is anticipated that these proceedings would be filed in Germany.

Milieudefensie's fight to hold Shell accountable for its CO2 emissions continues, with an appeal to the Dutch Supreme Court requesting a ruling for a specific rate of emissions reductions pending, following the Hague Court of Appeal overturning this finding. Separately, in May, Milieudefensie wrote to Shell demanding (i) an immediate halt on drilling for new oil and gas fields and (ii) agreement to a court order compelling Shell to set an emissions reduction target for the period from 2030 through to 2050. In light of Shell's response in June, where it did not accept these demands, Milieudefensie confirmed they will proceed to file a claim in respect of Shell's continued investment in new oil and gas fields.

It is clear that this is a developing area of climate litigation which will remain eventful through 2026.

Mass tort and environmental litigation

There have also been significant developments for climate accountability through mass tort claims.

Ogale & Bille Communities v Shell

In June, the High Court ruled that Shell and its former Nigerian subsidiary can be sued in England and Wales for historic oil spills in the Niger Delta. The case, filed in 2015 by the Ogale and Bille communities in the Niger Delta, argues that oil spills from Shell's infrastructure dating back to 1989 caused serious contamination to the communities' land and waterways. Following a four-week preliminary issues trial in early 2025, the High Court ruled that Shell cannot invoke a five-year limitation defence for a claim for trespass when pollution persists. Based on expert evidence on Nigerian law, it was found that *"a new cause of action will arise each day that oil remains on a claimant's land"*. This distinguishes the case from the Supreme Court's ruling in Jalla v Shell International Trading and Shipping Company, in which the claimants were time-barred from a claim for nuisance (rather than trespass) in which there was no continuing action by Shell, but where the pollution remained. The case is currently scheduled to proceed to trial in early 2027.

Claim against Shell for its role in Typhoon Odette

In October, Hausfeld delivered a Letter Before Action to Shell HQ in London for its role in causing Typhoon Odette in the Philippines. The claimants are a group of 67 individuals from several Philippines communities whose family members were killed and/or whose homes were destroyed by the typhoon. The letter notifies Shell of intended legal proceedings in England and Wales on behalf of the claimants who suffered severe losses, including serious property damage, personal injury, bereavement, psychological trauma, loss of earnings, and a loss of cultural rights. The claimants intend to seek damages for these losses and further relief in relation to the violation of their constitutional right to a balanced ecology. The claim alleges that Shell's actions materially contributed to anthropogenic climate change, which significantly intensified the typhoon's impact and likelihood, thereby increasing the damage suffered by the clients. Our press release provides further details.

Municipio De Mariana & Ors v BHP Group Plc & Anor

In November, the High Court handed down a groundbreaking decision in relation to BHP's liability for harm caused by the collapse of the Fundão Dam in 2015.
The claim is on behalf of 600,000 claimants who suffered extensive environmental and socio-economic damage as a result of the dam collapse and subsequent flow of liquified iron ore tailings. This pivotal judgment ruled in favour of the claimants, finding BHP strictly liable under Brazilian law, thereby highlighting the willingness of English courts to rule on environmental harm experienced in foreign jurisdictions – our detailed analysis of the impact of the judgment can be found here.

Non-aligned litigation

Non-aligned litigation focuses on legal proceedings challenging climate action. This has been most prevalent in oil-rich states or jurisdictions which are otherwise more sceptical of climate policies. One of the most widely known examples of such litigation was against Greenpeace US, which was found liable for defamation and other allegations in respect of the Dakota Access pipeline. In March, Greenpeace US was ordered to pay more than $660 million to Energy Transfer as a result. In October, this was significantly reduced to $345 million on the basis of a number of points of US law; however, Greenpeace notes they will continue to fight the case in both the US and Europe, where Greenpeace International has filed a counterclaim against Energy Transfer in the Netherlands using the so-called “Anti-SLAPP Directive”.

Greenwashing

The number of greenwashing claims seeking to hold companies accountable for climate-related statements which are deemed to be misleading continues to grow.

Association Greenpeace France and others v S.A. TotalEnergies Electricité et Gaz France and others

Whilst climate-positive and net zero claims by energy companies have been the subject of greenwashing complaints for a number of years, a recent finding by a French court against TotalEnergies is the first court ruling against a major oil and gas company for greenwashing in relation to net zero claims. In March 2022, Friends of the Earth France, Greenpeace France, and Notre Affaire à Tous (also with the support of ClientEarth) filed a claim against TotalEnergies in relation to its advertising and promotion of its net zero ambitions, fossil gas, and biofuels. The court found that some of the claims fell outside of consumer law and as such did not examine whether the claims were misleading. However, crucially, the court found that TotalEnergies had misled consumers by misstating its role in mitigating climate change.

This is a pivotal ruling which acts as a warning to oil and gas companies around the globe on the risk of publishing climate disinformation.

Investors For Paris Compliance complaint against Cenovus and Enbridge

Traditionally, greenwashing complaints have been for breaches of consumer law or advertising law for misleading consumers; however, a recent complaint by Investors For Paris Compliance alleges that two oil and gas companies are misleading investors, in breach of Canadian securities legislation.

In August 2025, Investors For Paris Compliance, an organisation which works with investors to hold companies which are publicly traded in Canada accountable to their net zero commitments, filed a complaint with the Alberta Securities Regulator challenging misleading disclosures made by Cenovus and Enbridge regarding their net zero strategies. The complaint alleges behaviours such as (i) incomplete disclosures on the current status of net zero targets and strategies (for Cenovus); (ii) significant investment in fossil fuel expansion, despite claims of alignment with net zero; (iii) setting misleading emissions reduction targets which overlook scope 3 emissions; and (iv) limited investment in activities consistent with net zero. Investors For Paris Compliance alleges that such behaviours breach Canadian securities law, which prohibits misleading or untrue statements, including omission of relevant facts.

The complaint could have wider implications across Canada: Investors For Paris Compliance alleges the practices described above are widespread amongst other Alberta-registered oil and gas companies and requests that if the Alberta Securities Regulator proceeds to open an investigation that they also consider evidence from such companies.

Other greenwashing complaints

Both the fashion industry and transport sector continue to be the subject of greenwashing complaints –whilst airlines have historically been the subject of complaints regarding misleading advertising for use of sustainable fuels (including ongoing complaints against Delta Air Lines and Qantas), it is likely that there will be an expansion of complaints into other parts of the transport sector (see, for example, a recent ASA ruling against ticket sellers of MSC Cruises).

Public law

The effects of the Supreme Court's 2024 judgment in *R (Finch on behalf of the Weald Action Group) v Surrey County Council and others* have continued to ripple throughout 2025. In that case, the Supreme Court held that downstream emissions, also referred to as scope 3 emissions, should have been taken into account by the local council when approving planning permission for the expansion of oil production at an onshore oil field in Surrey. The court's ruling has meant that proposed fossil fuel extraction projects, whether for new sites or expansions to existing sites, have been put under greater scrutiny through the environmental impact assessment ("EIA") process.

In January of this year, two controversial offshore developments in the North Sea (Jackdaw (Shell) and Rosebank (Equinor)) have had previously approved permissions quashed by the Court of Session in Scotland on the basis of the *Finch* judgment. Interestingly, all parties had agreed that the environmental impact assessments were unlawful in light of the *Finch* ruling. The key issue, therefore, for the court was what remedy to grant in respect of this: whether to quash the decisions, allowing for the deficiencies in the planning process to be rectified and a lawful planning decision to be made (known in Scotland as an order for reduction), or whether to allow the decisions to stand and proceed regardless (known in Scotland as a declarator).
It is perhaps unsurprising that counsel for the developers sought a declarator, emphasising the private interests at stake in the development and the significant investment made into the projects to date. In reaching a decision to quash the consent orders, Lord Ericht concluded that *"[t]he public interest in authorities acting lawfully and the private interest of members of the public in climate change outweigh the private interest of the developers."*[5] However, Lord Ericht held it would be "wrong and disproportionate"[6] for the quashing order to come into effect immediately, which would require any work on the projects to cease pending reconsideration, given the disruption this could cause if the lawful permission was subsequently granted. As such, it was left open to the developers to decide whether to continue work on the projects or not – importantly though, the court held that this work does not include the production of oil and gas pending re-consideration.

Following the judgment from the Court of Session of Scotland, subsequent guidance was published by the Department for Energy Security & Net Zero in June 2025 on assessing the effect of scope 3 emissions for offshore oil and gas projects, in view of the conclusions in *Finch*. Revised environmental impact assessments for both Jackdaw and Rosebank were submitted in September and October 2025, respectively.

Future oil and gas projects will also be considered in light of the European Court of Human Rights' ruling in the case of *Greenpeace Nordic and Others v Norway*. Whilst the court did not find a violation of Article 8 (the right to respect of private and family life), this was due to the possibility that any shortcomings in the EIA process could be addressed during the "*Plan for Development and Operation stage*". In reaching this conclusion, the Court, however, made three key findings in relation to the EIA process which climate NGOs involved in the case view as a step forward in climate accountability:

1. An EIA must be "*adequate, timely and comprehensive*" and "*based on the best available science*";
2. For petroleum production projects, the EIA must quantify the anticipated greenhouse gas emissions to be produced, "*including the combustion emissions both within the country and abroad*", and public authorities must assess whether the proposal is "*compatible with their obligations under national and international law to take effective measures against the adverse effects of climate change*"; and
3. An EIA must not disregard cumulative greenhouse gas emissions.

It is likely that those seeking to challenge proposed fossil fuel extraction projects will refer to these findings in challenging the adequacy of the EIA process.

In addition, whilst discussion around scope 3 emissions has often focused on fossil fuel extraction projects, other activities that require licensing permits will start to be scrutinised more intensely, with one such example being ClientEarth's latest challenge to INEOS's plastics facility, 'Project One'.

Looking forward

Developments in 2025 show that climate and environmental litigation will continue to expand across sectors and legal disciplines. In 2026, courts around the world will grapple with several significant issues, including the causation and quantum phase of *Municipio De Mariana & Ors v BHP Group Plc & Anor*, scheduled for October, and the judgment in *Asmania v Holcim*, which will test whether the 'in principle' liability of major carbon emitters established in *Lliuya v RWE* can be replicated under Swiss law. We also anticipate that the ICJ and IACtHR Advisory Opinions will increasingly frame how new claims are pleaded and, over time, work their way into binding domestic precedents.

Footnotes

[1] Lho'Imggin v. Canada 2025 FC 1586 [42] and [63] – [64].
[2] Lho'Imggin v. Canada 2025 FC 1586 [61].
[3] Lho'Imggin v. Canada 2025 FC 1586 [62].
[4] Lho'Imggin v. Canada 2025 FC 1586 [45] – [64].
[5] Petitions by Greenpeace LTD & Uplift for Judicial Review (Court of Session) [2025] CSOH 10 (29 January 2025) [151].
[6] Petitions by Greenpeace LTD & Uplift for Judicial Review (Court of Session) [2025] CSOH 10 (29 January 2025) [157].

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Hausfeld's environment practice stands out for its combination of legal expertise, strategic thinking, and genuine commitment to advancing climate justice through litigation. The team's work is rooted in a deep understanding of both the legal complexities and the broader societal implications of climate and environmental harms.'
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