

PRIMERS FOR INTERNATIONAL ACCOUNTABILITY: ADDRESSING ACCOUNTABILITY FRAMEWORKS FOR ENVIRONMENTAL HARM UNDER INTERNATIONAL LAW

What Accountability Frameworks Are Available for Environmental Harm Under International Law and Relevant to Asia?

In recent years, the growing number of environmental and [climate litigation cases filed](#) in [domestic](#) and [regional courts](#), together with escalating transboundary risks to [food security](#), [livelihoods](#), and [health](#), has increasingly brought environmental and climate harm to the centre of international legal disputes.

Unlike other jurisdictions, Asia does not have a single region-wide environmental or human rights court with binding or advisory powers. That means regulation of and accountability for environmental harm in the region usually does not operate through a single Asian enforcement body. Instead, it is spread across a patchwork of international frameworks ratified by States including global environmental treaties (such as the [Paris Agreement](#), [UNFCCC](#), and [Convention on Biological Diversity](#)), the [law of the sea](#), and sub-regional [dispute settlement mechanisms](#).

International law provides many avenues to address accountability for environmental harm, each operating at different levels and providing varying forms of responsibility and liability. While many other institutions and mechanisms exist, this primer will focus on three distinct frameworks: the International Court of Justice (ICJ)'s role in clarifying State obligations in light of climate change, the International Criminal Court (ICC) in addressing environmental harm within the Rome Statute, and the future Crimes Against Humanity Convention to capture severe environmental destruction.

How does the International Court of Justice Advance Accountability for Environmental Harm?

The ICJ, the [primary court of the UN system](#) hears two types of cases: contentious cases submitted by and between States under relevant treaties, and [requests for advisory opinions](#) on legal questions from authorised organs of the UN, its specialised agencies, or related organisations. In July 2025, the Court handed down a landmark [advisory opinion](#) on climate change for the first time, in response to a request from the UN General Assembly. The request was made on behalf of the Pacific Island States and Pacific Island students, led by the government of Vanuatu and co-sponsored by more than 120 States. It sought clarification regarding States' legal obligations in addressing climate change, as well as the legal consequences arising for breaches of those obligations. The proceedings saw an [unprecedented level of participation](#), including over 20 Asian States presenting oral and written statements.

The Court concluded, amongst other things, that all States have legally binding obligations to prevent "significant harm to the environment" and ensure the protection of the climate system for present and [future generations](#). These include specific duties in the context of climate change to reduce greenhouse gas emissions, regulate high-emitting activities, and adopt appropriate mitigation and adaptation measures in line with due diligence standards. Failure to act in this regard could amount to a breach of international legal obligations, including customary international law and warrant State responsibility. Importantly, these [customary duties](#) extend to every State, irrespective of their ratification of climate treaties. This decision received broad institutional support, with the

adoption of a [UN General Assembly resolution](#) by 141 States, which calls on States to implement and comply with their international law obligations as set out in the advisory opinion.

While the judgment remains an advisory opinion and thus non-binding on States, it carries significant authoritative weight in clarifying and articulating to States the scope of their legal obligations on climate change. Domestically, it can help [strengthen the legal basis](#) for climate litigation against States, and in some cases, private actors. Since its delivery, the advisory opinion has already been cited by courts in [Canada](#), the [Netherlands](#), and [Mexico](#) for its persuasive interpretive guidance. The decision complements a growing body of jurisprudence in which domestic courts have enforced climate obligations, including the [Urgenda](#) case, where the Dutch government was required to meet emissions reduction targets, and [Milieudefensie](#) and [Liuyua](#) case, which extended similar expectations to corporate actors. Across Asia, similar trends are emerging, with developments such as the Philippines '[Carbon Majors' inquiry](#), complementing climate proceedings in [Pakistan](#) that mark the first cross-border climate lawsuit against large oil and gas companies in the Global North. In [South Korea](#), new set of constitutional cases are challenging the adequacy of state-set climate targets (known as [Nationally Determined Contributions](#)). Ultimately, the extent of influence within different jurisdictions will depend on [how the ICJ decisions are received](#) by domestic courts, political actors and institutions.

How Does the International Criminal Court Advance Accountability for Environmental Harm?

Historically, international criminal law has provided limited avenues for accountability for environmental harm. During the 1998 Rome Conference negotiations, there were discussions of incorporating environmental harm into the statute, but ultimately [there was no consensus](#) to create a standalone environmental crime. Within the [Rome Statute](#), only one provision explicitly criminalizes severe environmental damage, namely Article 8(2)(b)(iv) (applicable to war crimes committed during international armed conflict). Other crimes such as genocide and crimes against humanity may be interpreted to include environmental harm only indirectly and under stringent requirements (see AJC's [primer](#) on serious environmental harm). For example, under Article 7 on crimes against humanity, severe environmental destruction may *only* be investigated and prosecuted where it falls within the residual category of "other inhumane acts" under Article 7(1)(k), namely conduct intentionally causing "great suffering, or serious injury to body or to mental or physical health".

A notable development took place in December 2025, when the ICC Office of the Prosecutor launched a [Policy on Addressing Environmental Damage under the Rome Statute](#). The policy signals a more deliberate approach at incorporating environmental harm within the scope of accountability for individual criminal responsibility. It clarifies that environmental destruction may be prosecuted as a Rome Statute crime where it constitutes, contributes to, or provides evidence of war crimes, genocide, and crimes against humanity. An earlier example of this can be found in the [arrest warrant issued against the former Sudanese President Al-Bashir](#) who was charged with genocide by deliberately inflicting "conditions of life calculated to bring about the physical destruction of [a] group". Here, the Prosecution alleged that acts of destroying water pumps and poisoning wells in Darfur were designed to target and destroy members of the Fur, Masalit, and Zaghawa ethnic groups.

Arguably, applying this framework, the destruction of Rohingya villages, agricultural land, and water sources in Myanmar could be characterised as a crime against humanity, potentially resulting in deportation or forcible transfer of population (under Article 7(1)(d)), other inhumane acts, and persecution (bearing in mind that persecution must relate to another crime and cannot be charged alone). The key factor is not the environmental harm alone, but its integration into a broader attack against a civilian population. Similarly, instances of [land grabbing](#) in Cambodia and widespread [deforestation](#) in Myanmar align closely with the Policy's recognition that illegal dispossession of land and exploitation of natural resources may contribute to forming a crime against humanity of deportation or forcible transfer of populations.

As the Court has [limited jurisdiction across Asia Pacific region](#), another alternative yet connected avenue is to operationalise the principle of complementarity under the Rome Statute through domestic investigations and prosecutions, including through the exercise of [universal jurisdiction](#). This is where national courts may prosecute atrocity crimes regardless of where they were committed. In principle, it creates potential for environmental harm—when framed as war crimes, crimes against humanity, or genocide—to be pursued outside the territorial State, particularly in jurisdictions with more robust legal frameworks.

A notable example is the ongoing [Lundin](#) case in Sweden, where corporate executives have been prosecuted for their alleged complicity in war crimes linked to resource extraction in Sudan, highlighting how environmental exploitation intersects with international criminal responsibility. Following from this, a similar argument can be made regarding Myanmar, where the [extraction and trade of conflict timber and teak](#) has been linked to military control, financing of armed operations, and associated human rights abuses. Such practices illustrate how environmental destruction and resource exploitation may form part of a broader pattern of unlawful conduct potentially amounting to international crimes. However, there has yet to be a universal jurisdiction case addressing environmental harm in Asia.

How Could the Future Crimes Against Humanity Convention Advance Accountability for Environmental Harm?

Preparations are currently underway to begin formal negotiations on the [United Nations Convention on the Prevention and Punishment of Crimes Against Humanity](#). The new convention would establish obligations on States to prevent and punish crimes against humanity, by facilitating the exercise of national jurisdiction. Currently, there is no standalone provision on the environment harm; instead, the draft Convention incorporates environmental harms into the existing crimes against humanity residual provision of “other inhumane acts” (under Article 7(1)(k)) mirroring Rome Statute as discussed above.

However, civil society groups have proposed amendments to the current definition of crimes against humanity toward a more expansive one that incorporates environmental harm. The International Union for Conservation of Nature’s (IUCN) proposal calls for the explicit inclusion of [“widespread, long-lasting, or severe destruction of the natural environment”](#) as an underlying act of crimes against humanity, where such act is used as a widespread or systematic means of causing damage or injury to civilian populations.

Some States have also taken a leading role in advancing this development. Throughout the discussions in the [UN General Assembly Sixth Committee](#), several African States – amongst them Sierra Leone, Eritrea, Cameroon, Burkina Faso, Ethiopia, and Morocco – have also expressed strong support for the inclusion of environmental harm in the convention text.

These developments reflect a [broader shift](#) toward considering whether severe environmental destruction, including climate change, particularly where it results in widespread human suffering, displacement, or loss of livelihoods, can and should be captured within the framework of crimes against humanity. Furthermore, this evolving framework also aligns with the growing recognition of the role of non-State actors, including corporations, in contributing to such harm. In this regard, Article 6 of the International Law Commission’s Draft Articles on Crimes Against Humanity, which addresses the responsibility of [“legal persons”](#), opens up the possibility of extending accountability beyond individuals to organisations and corporations.