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ClientEarth

States have a legal obligation to accelerate adaptation

COP31 Briefing



Climate action through the law

COP31 BRIEFING

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The case for adaptation in the era of climate disasters

The world has entered a new era of climate disasters. Communities worldwide are experiencing increasingly severe floods, droughts, extreme heat, wildfires, sea-level rise, and ecosystem degradation. Many of the worst-case scenarios that previous COPs tried to avert are now upon us. While mitigation through emission reduction is still crucial, the focus must turn with increasing urgency to adaptation, to survive what we cannot avoid.

This year's historic El Niño, for instance, is expected to be the strongest in living memory, putting millions of lives and livelihoods at risk. Although it is a natural phenomenon, climate change is making it stronger. The Climate Impact Lab projects that there will be 451,000 additional heat-related deaths in the first nine months (June-February) of El Niño, compared to a normal year.

Global infrastructures, business, farming and supply chains, health, social and emergency services will increasingly come under strain and risk of collapse without adaptation measures. Adaptation takes many forms: from retrofitting our towns and cities for the climate of the future, to deploying the use of early warning systems for extreme rainfall, heatwaves, and wildfires.

States have a legal obligation to act on adaptation

States have a legal obligation to protect people subject to their jurisdiction from foreseeable climate change harms, including harms from extreme weather events such as floods, wildfires, droughts, storm surges, and heatwaves.

Both customary international law and climate treaties, such as the UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, impose binding obligations on States to undertake national adaptation measures in line with the best available science. International human rights law is also clear that States must adopt timely and appropriate adaptation measures, to prevent or reduce climate harm to people. Failure to do so may constitute a breach of international human rights law. In its *Billy and others v. Australia* case, the UN Human Rights Committee, for the first time, found a country to have violated human rights law because of its failure to implement 'adequate adaptation measures to protect [the complainants'] home, private life and family'.

More and more rights-based adaptation cases are coming up before national and international bodies seeking remedies and accountability for adaptation failures and real-life harms suffered as a result.

The legal obligation to finance adaptation

Adaptation obligations are universal, but adaptive capacity is not. Many of the countries most exposed to climate impacts are often those that have least contributed to climate change. Many face significant fiscal and institutional constraints to put in place national adaptation plans and measures, while these require predictable, continuous and accessible financing.

In its 2025 Advisory Opinion on climate change, the International Court of Justice (ICJ) confirmed that under the UN Framework Convention on Climate Change, as well as subsequent climate treaties (see for example Article 9 of the Paris Agreement), high income countries have a legally binding obligation to '**assist the developing* country parties that are particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation to those adverse effects'.** In this seismic decision, the ICJ further confirmed that State parties must give full consideration to necessary actions such as those '**related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures'**.

This support must be at a scale adequate to achieving the 1.5°C goal, and developed countries must communicate on projected levels of climate finance.

Climate finance must support adaptation implementation. Communities require tangible protection measures capable of reducing vulnerability and increasing resilience. Effective finance arrangements should therefore focus on delivery, accessibility and long-term support. Adaptation finance must occupy a central role within the broader climate governance architecture, including the COP priority to enable the scaling up of financing to 'developing' countries for climate action from all public and private sources to at least USD $1.3 trillion per year by 2035.

Global progress on climate adaptation laws

A recent study found that over 900 climate adaptation laws and policies have been adopted across 35 countries, with 75% of these adopted since the Paris Agreement in 2015.

However, the study also found that in around two-thirds of countries assessed there was a lack of 'compliance, regular updating, and transparency on progress', despite the clear legal obligation to produce a National Adaptation Plan and to conduct risk and vulnerability assessments.

ClientEarth believes that the law can be a powerful tool to achieve effective adaptation. But for this to happen, the legal framework must be clear and comprehensive, and it must be thoroughly, equitably, and universally applied and implemented. At present, very few countries have a clear and comprehensive legal framework on adaptation laying down adequate adaptation policies, plans and budgets. The lack of comprehensive national adaptation frameworks is a major reason why adaptation action has failed to materialise at scale.

Frequently, even carrying out needs assessments and estimations of the costs of adaptation pose challenges for governments. In this respect, it is notable that a 2025 survey of 59 finance ministers (26 from advanced economies and 33 from emerging markets and 'developing' economies) conducted by the Grantham Research Institute

** We are using these terms to mirror the descriptor terms that appear in UNFCCC, the Paris Agreement and ICJ Advisory Opinion.*

for the Coalition of Finance Ministers for Climate Action found that only one in four ministries of finance could report on public expenditure and financing needs for adaptation, highlighting a gap in the financial information needed to translate adaptation plans into costed, adequately-funded action.

COP31 must deliver a stronger political understanding of the legal dimension of adaptation. Adaptation is still too often described as a policy objective, when in reality, it is a binding legal obligation under international climate and human rights laws.

Our ask

Strengthen and scale a rights-based approach to adaptation: Governments should adopt and implement rights-based adaptation frameworks that uphold the right to a healthy environment and protect those most vulnerable to climate impacts. Adaptation planning and delivery must be participatory, locally led, and responsive to the needs of at-risk and marginalised groups. Climate finance should prioritise resilience-building measures that safeguard communities, infrastructure, and ecosystems.



Legal obligations to protect people from climate impacts: A rights-based approach in practice

Adaptation as a human rights obligation has been recognised by the UN Human Rights Committee, the European Court of Human Rights, the International Court of Justice and the Inter-American Court of Human Rights, among others. In May 2026, the UN General Assembly voted 141 to 8 to operationalise the above-mentioned findings of the International Court of Justice (ICJ). It called on States to comply with their legal obligations – including those on adaptation – and asked the UN Secretary General to report on how compliance can be advanced.

The ICJ confirmed that specific legally binding adaptation obligations arise from Article 7, paragraph 9, of the Paris Agreement: '[e]ach Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions'. These actions may include:

> *"the implementation of adaptation actions, undertakings and/or efforts" (Article 7, paragraph 9 (a)); the formulation and implementation of national adaptation plans (Article 7, paragraph 9 (b)); the assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems (Article 7, paragraph 9 (c)); monitoring, evaluating and learning from adaptation plans, policies, programmes and actions (Article 7, paragraph 9 (d)); and building the resilience of socio-economic and ecological systems, including through economic diversification and the sustainable management of natural resources (Article 7, paragraph 9 (e)).*"[1]

The ICJ further stated that the fulfilment of adaptation obligations of parties is to be assessed against a standard of due diligence, and that State Parties to the Paris Agreement must:

> *"enact appropriate measures (examples of which are provided in Article 7, paragraph 9) that are capable of "enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change" (Article 7, paragraph 1). In this connection, parties must use their best efforts, in line with the best available science, with a view to achieving the aforementioned objectives. In this regard, the Court observes that the IPCC noted in 2023 that adaptation is a particularly pressing challenge in responding to climate change and that adaptation options exist that are effective in reducing climate risks in certain contexts, such as restoration of ecosystems, the creation of early warning systems, and resilience-enhancing infrastructure (see IPCC, Climate Change 2023: Synthesis Report, pp. 55-56, section 2.2.3). These options, as well as others such as regenerative farming, crop diversification, weatherproofing of buildings, and managing land to reduce wildfire risk, implemented by parties through the deployment of appropriate measures and the exercise of best possible efforts, could, in the Court's view, meet the adaptation obligations of parties under Article 7, paragraph 9, of the Paris Agreement."*[2]

1 https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf
2 https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

For COP31, the implication is clear: **adaptation cannot be treated as an optional add-on to the negotiations around emissions reduction and efforts to limit warming to 1.5°C**. Beyond the legally-binding obligations, the reality is that many of the climate impacts that we were warned of more than a decade ago, are now being felt.

International human rights law requires national adaptation plans to put human rights at the centre, from planning and implementation to the governance and public financial frameworks that support them.

The Inter-American Court of Human Rights (IACtHR) has established clear adaptation obligations for States, both across all human rights and in relation to the rights to life, health and personal integrity. The below findings of the IACtHR provide instructive clarity on what a human-rights based approach to adaptation must look like.

General adaptation obligations that apply to all substantive rights

- When formulating iterative versions of their national adaptation goals and plans, States must conduct impact, vulnerability and risk assessments collecting comprehensive information on the risks to people and ecosystems. These assessments must evaluate how climate risks affect at-risk and marginalised groups. The findings of these must inform how States design and implement their national adaptation plans;
- National adaptation plans must be based on planning processes at all levels of government (local, regional and national) and reflect both financial and technical needs for implementation. In line with the impact, vulnerability and risk assessments, planning must also take into account the protection needs of vulnerable communities and ecosystems;
- National adaptation plans and measures must set out short-, medium- and long term measurable outputs – such as implementation schedules, objectives indicators and deadlines – addressing both immediate needs as well as long-term structural causes underpinning vulnerability. Progress on implementation must be made publicly available;
- As regards the advancement of implementation of adaptation plans, States must allocate 'all possible resources', while ensuring that human rights are observed throughout;
- Monitoring, evaluation and learning systems must be put in place and supported by the necessary financial and institutional needs. In line with guarantees of non-discrimination, such systems must also assess the differentiated impacts climate risks as well as adaptation measures have on different sections of society.

Adaptation obligations specific to the rights to life, personal integrity and health

The Court emphasised the impacts of heat waves, droughts and floods, requiring States to:

- Ensure adequate water supply for drinking, sanitation and crop irrigation;
- Regularly update information on the groups and ecosystems most affected;

- Design and implement their strategies in a manner that enables people and ecosystems to recover;
- Put in place mechanisms for the protection of ecosystems particularly relevant for drought mitigation and flood protection;
- Develop infrastructure critical to preventing flooding caused by sea level rise or increased rainfall.

To further prevent and mitigate climate impacts on these rights, the Court emphasised the importance of:

- Increasing the resilience of national health systems;
- Integrating disaster risk management across different levels of care, particularly at the local level;
- Developing strategies and approaches to improving the resilience of infrastructure to climate disasters;
- Ensuring 'free, accessible, acceptable, and quality care in populations and communities affected by climate disasters';
- Designing and implementing training for care personnel in identifying and treating climate change health effects, such as heat stress;
- Strengthening health prevention programmes for conditions aggravated by climate change.



In practice: Landslides litigation in Uganda

The relationship between adaptation and human rights is becoming more significant. Climate impacts affect a wide range of protected rights, including to life, health, housing, food security, water access, equality, cultural rights and the right to a healthy environment. When adaptation fails or comes too late, there may be a breach of these fundamental rights.

ClientEarth's work supports adaptation efforts in Uganda where the growing impacts of climate change have intensified both the frequency and severity of extreme rainfall in the Mount Elgon region and heightened the risk of landslides. The Ugandan government recognised this in its own national adaptation plan in 2007 and, to address this growing threat, developed a specific resettlement plan in 2011 for those in high-risk landslide areas. However, there has been very little progress made and to date, only a limited number of people have been relocated.

In December 2019, a devastating landslide occurred, which killed 33 children and 20 adults living in the area. The homes of 41 people were lost, and the majority of the livestock, fields and crops which were a source of livelihood were destroyed.

Survivors took legal action in 2020. They argued that by failing to establish effective disaster management in Bududa, the government was in breach of the right to life and other fundamental rights under the Ugandan Constitution. The community is demanding emergency systems be put in place in high-risk areas (such as early warning systems in the language spoken by the local community) and that people who lost their families and livelihoods receive financial compensation and other forms of government support.

The knock-on effects from the landslide continue to shape everyday living conditions and long-term development opportunities. To this day, more than 20 people remain homeless. Some have relocated privately, but those who lack the means to do so live in daily fear of future deadly landslides. The increased poverty since the landslide has meant that many of the surviving children have stopped going to school, domestic violence has increased, and survivors live with emotional and mental health impacts.

A rights-based adaptation framework requires governments to identify foreseeable threats, assess vulnerabilities, protect at-risk populations, and implement adequate measures, all in consultation with the affected communities. Failure to do so may increasingly be challenged through legal mechanisms.

The Uganda context also highlights the importance of adaptation finance. Governments in low-income countries may be able to recognise climate risks, yet be unable to allocate sufficient national resources to implement protective measures. This tension creates an important link between domestic obligations, the duty to seek adaptation financial assistance from other states, and the international legal obligations on developed countries to assist on finance and adaptation.

Future adaptation litigation may increasingly focus on implementation failures. As scientific evidence improves and climate impacts become more visible, courts are likely to be asked whether governments around the world acted with due diligence in the face of known risks. Adaptation failures therefore represent a growing basis for seeking climate accountability.

In practice: Heat adaptation for children and pregnant women in Spain

2026 demonstrated beyond a doubt that heat is emerging as one of the most consequential climate risks in Europe. Heatwaves can acutely impact large populations for short periods of time, often trigger public health emergencies, and result in excess mortality and cascading socioeconomic impacts.

ClientEarth's heat adaptation work in Spain seeks to demonstrate how adaptation obligations operate in practice. Spain is the European country where heat-related mortality has increased the most during this century.

Pregnant women are particularly at risk of heat-related harms because of their reduced ability to regulate body temperature. Each 1°C rise in maternal heat exposure is linked to a 27-42% increase in the risk of miscarriage or stillbirth. Infants and children under two years old are also more susceptible to severe dehydration, heat exhaustion and heatstroke.

The effects of extreme heat on pregnant women and infants who live in sub-standard urban housing are so serious that they affect their basic rights, such as the right to live in dignity, their right to health, their right to an adequate standard of living and many others. If preventive adaptation action is not scaled up, over the next decades there will be a sharp increase in miscarriages, death, illnesses and colossal economic damages from an increase in public expenditure and healthcare costs connected to growing numbers of people having their health impacted by and needing treatment from extreme heat.

Public health experts increasingly understand the health implications of rising temperatures, but there remains a lack of general and social awareness of the harms that heat can cause to the human body. The authorities do not view adaptation measures to prevent death and health harms from climate change as their human rights duty. The question is therefore not whether risks exist, but what measures governments should take in response.

Evidence-based solutions for extreme heat are numerous and cross-sectoral; they range from low-cost to requiring significant investment; and can save millions of lives. Recognised adaptation measures that governments can implement include early warning systems for heat specifically designed to reach women; the reduction of air pollution; free or subsidised cooling at home; community cooling centres; public-health campaigns; worker protections; urban greening; insulation of buildings; emergency response systems; and targeted support for vulnerable groups. Such solutions need to be implemented at scale and at speed, but this is not happening.

In practice: Adaptation in Türkiye

Located in the Mediterranean Basin, one of the regions most vulnerable to climate change, our COP31 host country Türkiye is already facing the consequences of a warming climate through droughts, fires, floods and other extreme weather events.[3] These impacts are expected to become more frequent and severe in the years ahead. Climate change is costing lives, destroying homes, and disrupting livelihoods across Türkiye. As part of Climate Network Türkiye, ClientEarth works to improve climate legislation and governance.

People across Türkiye are increasingly taking action to protect their environment and livelihoods through strategic litigation and advocacy. They are challenging the government over inadequate climate targets[4], ongoing fossil fuel subsidies[5], and exemptions that allow highly polluting coal facilities to evade environmental obligations[6]. They are also advocating for robust climate legislation capable of providing accountability and the long-term direction needed for an effective transition.[7] Underpinning these efforts is a simple reality: every increment of warming intensifies climate impacts and narrows the opportunities for adaptation.[8]

Whether confronting sea mucilage, drying lakes, forest fires that have devastated tens of thousands of hectares of forest, or mining projects threatening agricultural land, people across Türkiye are mobilising to protect ecosystems that serve as a first line of defence against climate change. This is reflected in growing advocacy efforts and strategic litigation, including the Marmara Lake case, brought by a fishing cooperative after a protected lake lost almost all of its surface area. The case highlights how communities are turning to the courts to defend both nature and their livelihoods.[9] The Marmara Lake example demonstrates how environmental degradation can undermine resilience. Loss of ecosystem functions can increase vulnerability, weaken livelihoods and reduce adaptive capacity. Adaptation therefore requires an integrated approach addressing both community resilience and ecosystem protection.

Nature-based solutions offer important opportunities. Wetland restoration, forest protection, watershed management and biodiversity conservation can all contribute to resilience while producing wider environmental benefits.

3 IPCC, 2023: Summary for Policymakers. In: 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 [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 1-34, doi: 10.59327/IPCC/AR6-9789291691647.001

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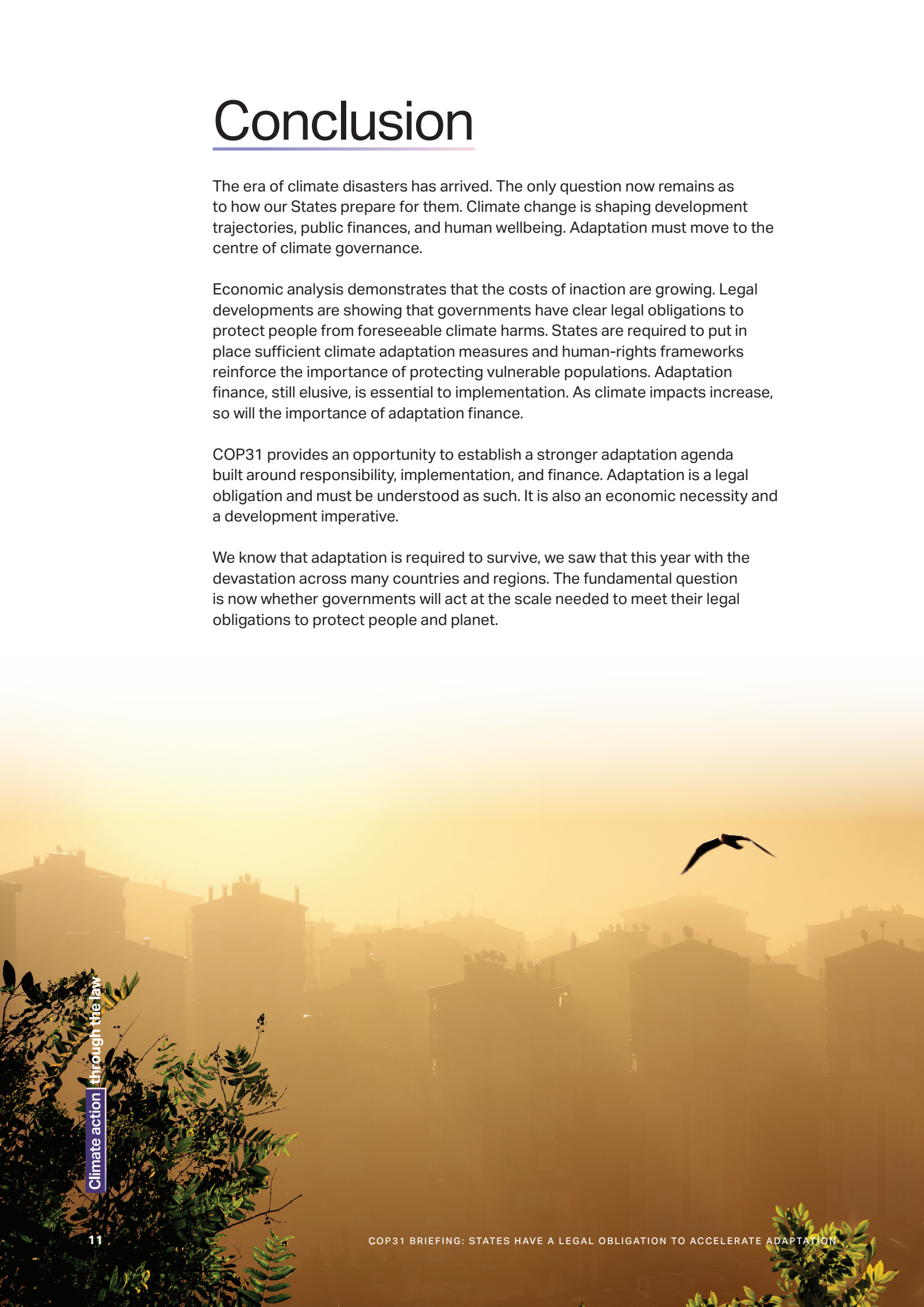
Conclusion

The era of climate disasters has arrived. The only question now remains as to how our States prepare for them. Climate change is shaping development trajectories, public finances, and human wellbeing. Adaptation must move to the centre of climate governance.

Economic analysis demonstrates that the costs of inaction are growing. Legal developments are showing that governments have clear legal obligations to protect people from foreseeable climate harms. States are required to put in place sufficient climate adaptation measures and human-rights frameworks reinforce the importance of protecting vulnerable populations. Adaptation finance, still elusive, is essential to implementation. As climate impacts increase, so will the importance of adaptation finance.

COP31 provides an opportunity to establish a stronger adaptation agenda built around responsibility, implementation, and finance. Adaptation is a legal obligation and must be understood as such. It is also an economic necessity and a development imperative.

We know that adaptation is required to survive, we saw that this year with the devastation across many countries and regions. The fundamental question is now whether governments will act at the scale needed to meet their legal obligations to protect people and planet.



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