

Tiny Vanuatu Uses Its 'Unimportance' to Launch Big Climate Ideas

It wants a top international court to weigh in on whether nations are legally bound to protect against climate risks.



By Somini Sengupta

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5 MIN READ

Nikenike Vurobaravu presides over a tiny country with a large hand in climate diplomacy.

Rising sea levels threaten the very existence of his Pacific Island nation of Vanuatu and its population of just over 300,000 people. Its best defense, he says, is to raise its voice creatively in international diplomatic talks.

From Vanuatu in 1991 came the idea that industrialized countries should pay for the irreversible climate-induced damage faced by developing countries like his. Last month at the United Nations climate talks in Egypt, an agreement was reached — after 30 years of negotiations — to establish a fund that would help poor countries cope with climate loss and damage.

Earlier this year Mr. Vurobaravu used the United Nations General Assembly podium to demand, for the first time, a fossil fuel “nonproliferation treaty.”

Now, he is dangling Vanuatu’s most provocative suggestion yet. He wants the International Court of Justice, the world’s highest judicial body, based in The Hague, to weigh in on whether governments have “legal obligations” to protect people from climate hazards, and more crucially, whether failure to meet those obligations could bring “legal consequences” under existing international laws. In short, it’s asking the court to say whether countries could be sued for climate inaction.

“We think outside the box,” said Mr. Vurobaravu, a quiet-spoken man whose gray downturned mustache gives him the appearance of a sad face emoji, though he’s anything but. As a small country that has historically been unimportant, as he put it, Vanuatu has learned to innovate. “If you try to proceed in the way that others do things, I believe we wouldn’t have gotten very far,” he said.

The draft resolution has been co-sponsored by 17 other countries, including at least one

industrialized nation with a large share of historic emissions — Germany. Neither the United States nor China have endorsed it.

Diplomacy may well be Vanuatu's only defense. Vanuatu has no army and no valuable commodity except tuna, which are increasingly moving away from Vanuatu's territorial waters as the oceans warm.



President Nikenike Vurobaravu addressed the United Nations General Assembly in September. Dave Sanders for The New York Times

Vanuatu's draft resolution requesting a legal opinion from the International Court of Justice was put up for discussion in mid-November at the General Assembly. Negotiations over every word and comma are expected over the next months, with a vote potentially in early 2023. To be adopted, the resolution needs a majority of the 193 member countries at the General Assembly. The votes of superpowers and small nations count equally.

To understand Vanuatu's uniquely oversized role requires understanding its unique history.

The islands, inhabited by its Indigenous Melanesian people since the sixth century B.C., were jointly ruled by Britain and France for nearly 100 years. Europeans were drawn to Vanuatu's sandalwood in the early 1800s, and then to its land and labor. Settlers established cotton plantations, then coffee, bananas and coconuts.

Vanuatu gained independence in 1980.

That's when Mr. Vurobaravu, who was trained as a lawyer, became a diplomat. He set up his country's foreign service.

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In 1981, when Vanuatu took up a seat at the General Assembly, his friend, Robert Van Lierop, an American filmmaker-turned-lawyer, became its first envoy to the United Nations. Vanuatu went on to help create the Alliance of Small Island States, or AOSIS, which has since become an influential bloc of 39 countries in global climate negotiations. Mr. Van Lierop proposed a "loss and damage" mechanism in 1991, as a United Nations climate convention was being negotiated.

The idea of seeking a legal opinion from the International Court of Justice came from a group of law students four years ago, Mr. Vurobaravu said. By then, Vanuatu's capital had been pummeled by a category 5 cyclone, Pam. Entire villages were flattened. Crops destroyed. An early warning system was credited with keeping the death toll low: 11 people died.

Mr. Vurobaravu is now 72 and grandfather of two. "The impacts are becoming worse and worse of climate change," he said. "When I look at their faces and I think about what it's going to be like when they're 20, when they're 30?"

Category 4 and 5 cyclones are now common, and cyclone season, which goes from November to March, is also the planting season for Vanuatu's subsistence farmers. The last major cyclone, in 2020, hit his home island, Malo. For close to a year, Malo's people relied on aid.



Emergency supplies being distributed after Cyclone Harold in 2020. International Federation of Red Cross, via Agence France-Presse — Getty Images

Already, six villages on four islands have been relocated. Drinking water has become saline and they're no longer livable. Cyclones and warmer ocean waters have destroyed coral reefs and the fish that many people subsisted on. Dengue and malaria are on the rise.

Which is why when the law students suggested looking into whether existing international laws could be used to protect future generations, Mr. Vurobaravu said, he couldn't just turn them away. In his culture, he said, elders have obligations.

"They're asking the government leadership, they are asking the regional leadership, they're asking international leadership to pick up their obligation," he said.

Last month, Mr. Vurobaravu sat in a small room at a noisy, crowded convention center in Sharm el Sheikh, where the climate talks were being held, and reflected on the demands of younger generations. He said he heard them asking, "How come you're drunk on fossil fuels?"

The campaign for a legal opinion is complicated by geopolitics. A similar effort more than a decade ago by two other Pacific island nations, the Marshall Islands and Palau, went nowhere, in large part because of opposition from more powerful countries. (The United States has authority over the defense and security of both countries and the U.S. Army has a missile defense site in the Marshall Islands.)



By The New York Times

Vanuatu's geopolitical relationships are different. China is stepping up its diplomatic influence in the Pacific, including with Vanuatu, which is introducing Chinese language instruction in its schools. Australia is its biggest trading partner, and the nation is defended by Australia, New Zealand and France.

It has its diplomatic eggs in many baskets, and its president said he wasn't concerned about pressure from rich, industrialized countries to drop the campaign for an international legal opinion. "If they threaten us, we stop? This thing will stop? I doubt it ma'am," he said.

The draft resolution asks the International Court of Justice, or ICJ, to assess existing laws, such as the covenants on cultural rights and the Law of the Sea, to consider whether they protect current and future generations from climate hazards. Already a handful of national courts have ruled in favor of activists' lawsuits, relying in part on international law.

"A decision from the ICJ could be the most authoritative statement to date of the obligations that international law imposes on states to control their greenhouse gas emissions," said Michael Gerrard, a law professor at Columbia Law School, who was involved in the previous effort by Palau and the Marshall Islands.

To hear Mr. Vurobaravu tell it, Vanuatu's diplomatic strategy has been shaped by its history. Britain and France, rival powers, could never agree on most things concerning the governance of Vanuatu.

Vanuatu, he said, had to figure out strategies that bigger, more powerful countries would have no reason to pursue. "We had to learn how to manage our unimportance. And I know it sounds a bit corny and funny, but our people had to do that for 75 years, he said. "We still do."

A correction was made on Dec. 9, 2022: Because of an editing error, an earlier version of a picture caption with this article described incorrectly the geography of Vanuatu. It is a group of volcanic islands, not an atoll nation.

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