

The International Court of Justice's advisory opinion on climate obligations

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Introduction

The International Court of Justice (ICJ) has set out the obligations of states in respect of climate change, in a unanimous Advisory Opinion offered as a partial solution to “an existential problem of planetary proportions that imperils all forms of life and the very health of our planet”.¹ Obligations to protect the climate system stem from treaties — including but not limited to the Paris Agreement — and customary international law, including the duty to prevent significant harm to the environment. A breach by a state of any of these obligations constitutes an internationally wrongful act entailing the responsibility of that state, with legal consequences including, in principle, full reparation to injured states. Reception to the Advisory Opinion has been celebratory in many states, including Vanuatu, which led the push for the request for the opinion at the General Assembly (GA). Scholars have heralded the systemic and robust nature of the court's reasoning.² There is general agreement that the prospect of international and domestic litigation, and a stronger negotiating position for low-lying developing states in climate negotiations, is enhanced by the Advisory Opinion, notwithstanding its non-binding nature. This article analyses the most significant aspects of the Advisory Opinion for international law and for Australia.

Background

The ICJ, as the primary judicial organ of the United Nations (UN), issues advisory opinions at the request of the GA or other organ or agency.³ This advisory jurisdiction operates alongside the court's contentious jurisdiction; while the latter leads to judgments that bind disputing parties, the former leads to non-binding advice that often contain authoritative interpretations of international law and material implications for states.⁴ Recognising this prospect, Vanuatu and other Pacific countries led the GA to resolve by consensus in 2023 to request the ICJ to render an Advisory Opinion;⁵ its considerable diplomatic effort was sparked by Pacific law students frustrated by the lack of action (including on liability and loss and damage) in the conferences of the parties (COPs) of the UN Framework Convention on Climate

Change (UNFCCC) and the Paris Agreement.⁶ The legal proceedings attracted high levels of participation by states and international organizations, and were broadcast around the world, as was the delivery of the Advisory Opinion itself on 23 July 2025.⁷

Scope of the request

The GA asked the court to render the Advisory Opinion on the following:

- (a) What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for states and for present and future generations?
- (b) What are the legal consequences under these obligations for states where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to:
 - (i) states, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change
 - (ii) peoples and individuals of the present and future generations affected by the adverse effects of climate change

The court interpreted this request expansively with respect to the relevant conduct at issue. (By contrast, the court was constrained in its identification of individuals or groups to whom obligations are owed and the states that have caused or are causing harm, as discussed further below).⁸ The court considered that the scope of relevant activities that adversely affect the “climate system” is not limited to conduct that directly results in GHG emissions — which might relate to the burning of oil, coal or gas for energy, transport or heating in the territory of a state — but instead “comprises all actions or omissions of States which result in the climate system . . . being adversely affected by anthropogenic GHG emissions”.⁹ As such, the “full range of human

activities that contribute to climate change as a result of the emission of GHGs, including both consumption and production activities”¹⁰ is covered by the request.

The court’s position has major significance, especially for a state like Australia that produces and exports large quantities of coal and gas.¹¹ The court cited with approval the view that obligations of a state “within whose jurisdiction fossil fuels are produced . . . do not rest exclusively with consumers and end users, but also include activities such as ongoing production, licensing and subsidization of fossil fuels.”¹² This view aligns with the concept of a “carbon budget”,¹³ which has been hard to translate in law before now.¹⁴

Sources of states’ obligations

The applicable law for the ICJ is less constrained than specialised international courts and tribunals.¹⁵ The GA’s request invited the court to have particular regard to the UN Charter, the UNFCCC and Paris Agreement, the UN Convention on the Law of the Sea (UNCLOS), the duty of due diligence, human rights law, the principle of prevention of significant harm to the environment, and the duty to protect and preserve the marine environment. The Advisory Opinion took an expansive approach to the most directly relevant applicable law, extending this list to include additional treaties and custom,¹⁶ as discussed below. Rejecting the submissions of some of the participants that the UNFCCC and Paris Agreement displaced all other rules¹⁷ (a submission that had already been rejected by the International Tribunal for the Law of the Sea with respect to the relationship of the Paris Agreement to UNCLOS),¹⁸ the court was unequivocal that climate change treaties do not constitute *lex specialis* in their relation to other rules of international law.¹⁹ Instead, the climate change treaties are to be assessed alongside other rules and principles.²⁰

Australia claimed before the court that the UNFCCC and the Paris Agreement were the principal sources of states’ obligations concerning protection of the climate system, and that the provisions of other treaties that are relevant to the obligations of states should be considered to be complementary rather than containing additional or more extensive obligations.²¹ Australia also pointed to the obstacles of applying principles of state responsibility to the climate context (including difficulties in causation). For Australia, these challenges reinforced the view that the “specialised climate treaty regime”, and a “collective” way of addressing climate change through mechanisms negotiated through these treaties, was preferable to establishing individual consequences of a wrongful act by a responsible state. The court did not agree, finding that the breaches of climate obligations give rise to the “entire panoply of legal consequences provided for under the law of State responsibility”.²²

Content of climate obligations

The court’s clarification of the directly relevant applicable law led to the elaboration of a comprehensive set of climate obligations. Much of the court’s response to question (a) was devoted to the climate change treaties, and in particular the Paris Agreement, but this was not an endorsement of their primacy or higher relevance.²³

Climate change treaties

Although the Kyoto Protocol’s commitment periods have expired, the court included it together with the UNFCCC and the Paris Agreement, allowing both current and historic assessments. Obligations were understood in the context of the goal to limit global warming, now expressed in the Paris Agreement as a temperature target of 1.5°C above pre-industrial levels.²⁴ The court emphasized the binding nature of obligations of states parties to prepare, communicate and maintain successive and progressive nationally determined contributions (NDCs) that, taken together, are capable of achieving the temperature target. The court observed that states parties “are obliged to exercise due diligence and ensure that their NDCs fulfil their obligations under the Paris Agreement”.²⁵ This purposive interpretation took account of the broader normative context of the Paris Agreement,²⁶ requiring the content and implementation of NDCs to satisfy certain standards rather than being entirely discretionary.²⁷ For some judges, NDCs must include the phasing out of production and use of fossil fuels, including subsidies.²⁸

Of the many consequences of these views for Australia will be scrutiny of its latest NDC, just released, which sets a 2035 target of 62–70% reduction in net national greenhouse gas emissions below 2005 emissions levels.²⁹ This accords with the advice of the Climate Change Authority, but is not as ambitious as the 75% figure supported by some climate advocates and noted immediately by Vanuatu.³⁰ While phasing down unabated coal power is included in the NDC, the determination to decrease exports of emissions intensive commodities is not apparent. In Australia’s response to the first Global Stocktake’s goal of achieving a just transition to net zero by 2050,³¹ it refers to its reputation as a “trusted and reliable energy exporter” and pledges that it will “continue to invest in the sectors needed to provide our trade partners with energy to remain a reliable energy partner”.³²

Highly relevant for Australia is the court’s view that mitigation measures entail an obligation of due diligence, especially in situations “in which the activities in question are mostly carried out by private persons or entities”.³³ Australia’s legislation, administrative procedures and enforcement mechanisms at both the federal and subnational level are necessary to examine in light

of these views. In addition, to fulfil these “stringent” due diligence obligations, states parties must ensure the NDC is adequate, reflective of “best efforts”, and capable of achieving the temperature goal when assessed together. For a high-income country like Australia, these efforts are assessed according to states parties’ means and capabilities.³⁴

Customary international law

The obligations under customary international law enunciated by the court are especially significant because they bind all states. These obligations emanate from the customary duty of states to prevent significant harm to the environment and cooperate for the protection of the environment. The obligations include stringent standards of due diligence (such as the need for legislation, administrative procedures and an enforcement mechanism, including the regulation “of public and private operators within the States’ jurisdiction or control”).³⁵ Among many implications, the customary basis of obligation of due diligence prompts consideration of the relative powers of the Commonwealth and the states and territories within Australia’s federal system.

The court referred to the precautionary approach or principle,³⁶ a concept that is elucidated further in the separate opinion of Charlesworth J.³⁷ In emphasising the importance of states providing for and conducting environmental impact assessment (which includes assessment of downstream effects of projects),³⁸ the Advisory Opinion has immediate relevance to the discussions surrounding the need for a climate trigger in proposed federal reforms.³⁹ In another passage sure to animate Australian lawyers, the court opined that in general terms, compliance in full and in good faith by a state with the climate change treaties “suggests” that this state substantially complies with its customary duties.⁴⁰ Multiple judges, including Charlesworth J, made clear that this paragraph “should not be interpreted to suggest that compliance with customary rules may be assessed only by reference to the climate change treaties”.⁴¹

Environmental treaties

The court articulated obligations to protect the climate system under multilateral environmental agreements. It pinpointed the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer and its Kigali Amendment, the CBD and the UN Convention to Combat Desertification. The inclusion of the CBD ensured the consideration of cross-cutting issues such as “ecosystem protection measures” (recognised as simultaneously operating as climate change mitigation and adaptation measures).⁴² Of particular note was the view that “States parties must take their obligations

under these environmental treaties into account when implementing their obligations under the climate change treaties and under customary international law”.⁴³ This shows, for example, that activities to meet the Paris temperature target, such as renewable energy facilities, or the sequestering of carbon in a forest or a mangrove restoration, must be done in conformity with CBD and other obligations.⁴⁴ Climate action in Australia, whether in “go” or “no go” areas, could risk harming the ‘biosphere’ part of the climate system and contravening these international obligations if the broader corpus of international law is ignored.

UN Convention on the Law of the Sea

The law of the sea provided another set of obligations for the court, which ascribed great weight to the Advisory Opinion from the International Tribunal for the Law of the Sea (ITLOS).⁴⁵ Affirming ITLOS’s views of the “stringent” obligation of states parties to UNCLOS to adopt measures to protect and preserve the marine environment and to cooperate in good faith, given the seriousness of climate change,⁴⁶ the court also endorsed its interpretation of “pollution” as including GHG emissions.⁴⁷ The court offered views on climate-change related sea level rise that were consistent with a recent report of the International Law Commission. In views that will be celebrated by low-lying states including in the Pacific, the court pointed to a convergence of views of states that maritime zones, once established, would not need to be updated.⁴⁸

Human rights law

The court outlined obligations to respect and ensure the effective enjoyment of human rights by taking necessary measures to protect the climate system. Australia’s *National Climate Risk Assessment*⁴⁹ and *National Adaptation Plan*,⁵⁰ released after the Advisory Opinion, should be assessed with these views in mind. The court referenced a range of rights, without attempting to be exhaustive.⁵¹ It drew on regional courts such as the European Court of Human Rights⁵² and the Inter-American Court of Human Rights, which had just delivered its Advisory Opinion on the climate emergency and human rights.⁵³ UN treaty bodies were also cited, including the successful petition to the Human Rights Committee by Torres Strait Islanders which held that Australia was in violation of the petitioners’ right to privacy, family and home by failing to implement climate adaptation measures.⁵⁴

The Advisory Opinion also endorsed the right to a clean, healthy and sustainable environment as essential for the enjoyment of other human rights, such as the right to life and the right to health.⁵⁵ The content and status of the human right to a clean, healthy and

sustainable environment was detailed in declarations and separate opinions,⁵⁶ including from Charlesworth J, who also emphasised the procedural implications of human rights law such as access to justice.⁵⁷ Judge Charlesworth gave voice to the testimonies of climate vulnerable groups in Kiribati, Tonga, Tuvalu and other places, and pointed to the need for an approach that is attuned to how intersection of gender with race, class, ethnicity and other status exacerbates inequity.⁵⁸

The court emphasised that the implementation of obligations under the climate change treaties must take account of human rights law.⁵⁹ Consistent with its refusal to assume all rights are harmonious in the context of environmental treaties,⁶⁰ and reinforced by Charlesworth J's conclusion that states have a particular obligation to attend to the potentially discriminatory effects of measures taken to respond to climate change,⁶¹ this view also accords with the practical findings of scientists and social scientists about the potential for human rights violations in climate mitigation projects.⁶² Australia's latest NDC identifies the need to identify of certain cohorts, such as women and First Nations people, who are affected disproportionately by climate policies.⁶³

Legal consequences

Having set out the legal obligations of states, the court answered question (b) in general terms, without articulating the individual responsibility of a state or a group of states for damage caused to the climate system. The court considered this would require a case-by-case assessment.⁶⁴ Though Yusuf J was highly critical at what he considered to be a lack of engagement with empirical realities, historic emissions, and climate justice in the Advisory Opinion,⁶⁵ the court has laid out a framework for the future judicial settlement of these issues.

In rejecting the view that any rules under the climate change treaties were *lex specialis*, as noted above, the court found the general rules on States responsibility were not excluded. The court thus addressed issues of attribution and causation, offering a view that is likely to reverberate in legal offices in fossil-fuel producing states including Australia:

Failure of a State to take appropriate action to protect the climate system from GHG emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State.

... In relation to private actors, the Court observes that the obligations it has identified under question (a) include the obligation of States to regulate the activities of private actors as a matter of due diligence. Therefore, attribution in this context involves attaching to a State its own actions or omissions that constitute a failure to exercise regulatory due diligence.⁶⁶

Legal consequences thus flow from a state's failure to exercise due diligence and take necessary regulatory and legislative measures, including with respect to the licensing of fossil fuel activities and the failure to properly assess their impacts. The court was not deterred by the cumulative nature of wrongful conduct, and the plurality of states that cause injury. It considered it possible that injured states could separately invoke the responsibility of every state that had committed an internationally wrongful act,⁶⁷ and that a causal link between the harm and injury might also be made out.⁶⁸

The legal consequences of an international wrongful act include obligations of cessation and non-repetition, as well as full reparation for an injured state, comprising restitution, compensation and satisfaction. Restitution could take the form of “reconstructing damaged or destroyed infrastructure, and restoring ecosystems and biodiversity”,⁶⁹ while satisfaction could take the form of formal apologies or education of the society about climate change.⁷⁰ The court referred to its recent jurisprudence confirming that environmental damage is compensable under international law.⁷¹ In a significant step, the court considered that obligations *erga omnes* arise in relation to certain customary and treaty obligations due to the interest of “all” states in the protection of the global commons, thus enlarging the types of future claims invoking responsibility for breach.⁷² The court concluded its Advisory Opinion with the hope that it had “allow[ed] the law to inform and guide social and political action to address the ongoing climate crisis”.⁷³

Conclusion

The Advisory Opinion is a significant development for states and for international law, noteworthy in its unanimity, systemic approach and far-reaching interpretation of climate obligations and legal consequences. It will no doubt “shape and elevate international legal discourse on climate responsibility”.⁷⁴ There is relevance for Australia's historic, current and future legal and political activities — most obviously with respect to its latest NDC, its climate risk assessment, its decisions on coal and gas projects (at the Commonwealth and state and territory level), the Environment Protection and Biodiversity Conservation Act 1999 (Cth) reforms, and other arrangements within the federation. Internationally, Australia is currently seeking to strengthen its relationship with Pacific nations through the joint bid to host the climate COP in 2026; Vanuatu has indicated that it does not intend to launch a contentious case against Australia at this time.⁷⁵ Yet litigation at the international and domestic level is at least foreseeable, and Australia is one of the few high-emitting states that has accepted the compulsory jurisdiction of the ICJ.⁷⁶ International law has an important role in Australian efforts to combat

climate change, and in consequences for states whose actions fall short of what is required.

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Footnotes

1. International Court of Justice (ICJ) *Obligations of States in Respect of Climate Change — Advisory Opinion* (2025) [456], www.icj-cij.org/case/187/advisory-opinions.
2. See eg M Young “EJIL: The Podcast! Episode 37: The ICJ’s Advisory Opinion on Climate Obligations: Remarkable, Radical and Robust” blog post (31 July 2025) www.ejiltalk.org/ejil-the-podcast-episode-37-the-icjs-advisory-opinion-on-climate-obligations-remarkable-radical-and-robust/; see also M Wewerinke-Singh and J Viñuales “The Great Reset: The ICJ Reframes the Conduct Responsible for Climate Change Through the Prism of Internationally Wrongful Acts” blog post (4 August 2025) www.ejiltalk.org/the-great-reset-the-icj-reframes-the-conduct-responsible-for-climate-change-through-the-prism-of-internationally-wrongful-acts/.
3. Charter of the United Nations, Art 96; Statute of the International Court of Justice, Arts 65–8.
4. See H Charlesworth and M Young “Australian Encounters with the Advisory Jurisdiction of the International Court of Justice” (2021) 21 *Melbourne Journal of International Law (MJIL)* 698; D Guilfoyle “The Chagos Archipelago before International Tribunals: Strategic Litigation and the Production of Historical Knowledge” (2021) 21 *MJIL* 749.
5. Resolution 77/276 (29 March 2023).
6. M Wewerinke-Singh, J Viñuales and J Aguon “The Role of Advocates in the Conception of Advisory Opinion Requests” (2023) 117 *American Journal of International Law Unbound* 277–81.
7. UN Web TV, The Hague — The International Court of Justice (ICJ) delivers its Advisory Opinion on the Obligations of States in respect of Climate Change, 23 July 2025, accessed 10 November 2025, <https://webtv.un.org/en/asset/k1c/k1cg72yf19>.
8. ICJ *Separate opinion of Judge Yusuf* (2025) [6] www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-03-en.pdf (*Separate opinion of Judge Yusuf*); see also J Odermatt “What the Court Didn’t Say: The ICJ’s Climate Opinion and the Politics of Judicial Restraint” blog post (30 July 2025) <https://verfassungsblog.de/what-the-court-didnt-say>.
9. Above n 1, at [94].
10. Above.
11. E Vines “Legal Constraints on Australian Coal Mining: The Role of the Paris Agreement” (2023) 13 *Climate Law* 224; see also F Green and others “No new fossil fuel projects: The norm we need” (2024) 384 *Science* 954–57.
12. Above n 1, at [94].
13. ICJ *Joint declaration of Judges Bhandari and Cleveland* (2025) [8]–[9] and references therein www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-06-en.pdf.
14. M Young “Climate Change and Law: A Global Challenge for Legal Education” (2021) 40(3) *University of Queensland Law Journal* 351 at 357.
15. Statute of the ICJ, Art 38(1).
16. Above n 1, at [172]. Other sources, such as international trade, investment and humanitarian law, might also comprise relevant rules under various circumstances: above n 1, at [173]. For a data visualisation depicting eight of the relevant treaties, in addition to custom, see *Verfassungsblog*, M Young, D Parker and S Roudavski, Visualisation of the Advisory Opinion on Climate by the International Court of Justice, 5 November 2025, accessed 25 November 2026, <https://verfassungsblog.de/visualisation-of-the-advisory-opinion-on-climate-by-the-international-court-of-justice/>, DOI: 10.17176/20251106-141946-0.
17. See eg ICJ *Written Statement of Saudi Arabia* (2024); ICJ *Written Statement of Kuwait* (2024).
18. International Tribunal for the Law of the Sea *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law* (2024) [224].
19. Above n 1, at [171]; see also ICJ *Joint declaration of Judges Charlesworth, Brant, Cleveland and Aurescu* (2025) www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-09-en.pdf (Joint declaration of Judges Charlesworth, Brant, Cleveland and Aurescu); ICJ *Declaration of Judge Tladi* (2025) [4] www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-12-enc.pdf (Declaration of Judge Tladi).
20. See M Young “Systemic Integration of Obligations in an Era of Climate Change: Stability and Optimal Control” (2025) *British Yearbook of International Law* (forthcoming) <https://doi.org/10.1093/bybil/braf006>.
21. ICJ *Written Statement of Australia* (2024).
22. Above n 1, at [445].
23. Declaration of Judge Tladi, above n 19, at [4]–[5].
24. The court preferred this to the other temperature target of 2°C through its interpretation of the Paris Agreement, Arts 2 and 4, that took into account the first Global Stocktake of 2023 in Decision 1/CMA.5 as a “subsequent agreement”: see above n 1, at [224].

25. Above n 1, at [245].
26. See further L Rajamani “Interpreting the Paris Agreement in its Normative Environment” (2024) 77 *Current Legal Problems* 167.
27. Above n 1, at [248] and [252].
28. Joint declaration of Judges Bhandari and Cleveland, above n 13, at [22].
29. Commonwealth of Australia *Australia’s NDC Investment Blueprint* (2025) dcceew.gov.au/publications.
30. ABC Radio National Breakfast, “Falls short”: Vanuatu on Australia’s 2035 climate target, 19 September 2025, accessed 10 November 2025, www.abc.net.au/listen/programs/radionational-breakfast/vanuatu-climate-target-australia-2035/105792260.
31. Above n 24, On Global Stocktake (see [28(d)]).
32. Above n 29, at 27. For background, see M Wilkinson “Woodside vs The Planet: How a Company Captured a Country” (2025) 99 *Quarterly Essay* 1 at 63–75.
33. Above n 1, at [252], citing with approval above n 18, at [236].
34. Above n 1, at [270]. On “common but differentiated responsibilities and respective capacities”, see also above n 13; cf ICJ *Separate opinion of Judge Xue* (2025) www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-04-en.pdf.
35. Above n 1, at [282].
36. Above n 1, at [293]–[294]. The court did not adjudicate on the distinction between principle and approach, which has also been left unresolved in negotiating processes such as the agreement on marine biodiversity beyond national jurisdiction.
37. ICJ *Separate opinion of Judge Charlesworth* (2025) www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-08-en.pdf (Separate opinion of Judge Charlesworth), drawing also on above n 18. For criticism that the court should have been clearer on precaution, see Separate opinion of Judge Yusuf, above n 8.
38. Above n 1, at [298]; see also above n 13. The court gives as an example of a wrongful act entailing legal consequences such as compensation, the failure to conduct EIA: above n 1, at [444].
39. R McLelland et al *What are the implications of the ICJ Climate Advisory Opinion for EIA in Australia?* (2025) www.corporateclimateaccountability.org/resources (with respect to proposed reforms of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)).
40. Above n 1, at [314].
41. Joint declaration of Judges Charlesworth, Brant, Cleveland and Aurescu, above n 19, at [5]. See also Declaration of Judge Tladi, above n 19, at [22]. Compare ICJ *Declaration of Judge Nolte* (2025) [11]–[13] www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-07-en.pdf (Declaration of Judge Nolte).
42. Above n 1, at [127]. The court noted Target 8 of the Kunming-Montreal Global Biodiversity Framework agreed by the Conference of the Parties to the CBD (at [328]). See also ICJ, *Written Statement of the International Union for Conservation of Nature (IUCN)* (2024) [243]–[268] (Written Statement of IUCN).
43. Above n 1, at [335].
44. Written Statement of IUCN, above n 42, at [269]–[273].
45. Above n 1, at [338].
46. Above n 1, at [343]. On implications for carbon sinks, see ICJ *Declaration of Judge Cleveland* (2025) [4]–[13] www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-10-en.pdf.
47. Above n 1, at [349].
48. Above n 1, at [362]; see also ICJ *Separate opinion of Judge Aurescu* (2025) www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-11-en.pdf (Separate opinion of Judge Aurescu); cf ICJ *Declaration of Judge Tomka* (2025) www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-02-en.pdf.
49. Commonwealth of Australia *National Climate Risk Assessment* (2025).
50. Commonwealth of Australia *National Adaptation Plan* (2025).
51. Above n 1, at [376].
52. European Court of Human Rights, *Verein KlimaSeniorinnen Schweiz v Switzerland*, Grand Chamber, Judgment of 9 April 2025.
53. Inter-American Court of Human Rights, *Advisory Opinion OC-32/25 of 29 May 2025*, Series A No 32.
54. Above n 1, at [381].
55. Above n 1, at [393].
56. Above n 1, Separate opinion of Judge Charlesworth; Separate opinion of Judge Bhandari; Separate opinion of Judge Aurescu, above n 48; Declaration of Judge Tladi, above n 19.
57. Separate opinion of Judge Charlesworth, above n 37, at [12].
58. Above, at [24].
59. Above n 1, at [404].
60. See above n 43.
61. Separate opinion of Judge Charlesworth, above n 37, at [29].
62. See eg M Tehan and others *The Impact of Climate Change Mitigation on Indigenous and Forest Communities*, Cambridge University Press, 2017.
63. Above n 29, at 21.
64. Above n 1, at [406]; cf Separate opinion of Judge Yusuf, above n 8, at [7].
65. Separate opinion of Judge Yusuf, above n 8; see also J Dehm “The Evasion of Historical Responsibility?: Colonialism, Temporality and Reparative Justice in the ICJ’s Climate Advisory Opinion” blog post (4 September 2025), <https://verfassungsblog.de/the-evasion-of-historical-responsibility>.
66. Above n 1, at [428]–[429].
67. Above n 1, at [431]. Compare Declaration of Judge Nolte, above n 41, at [20].
68. Above n 1, at [438].
69. Above n 1, at [451].
70. Above n 1, at [455]. See also Separate opinion of Judge Bhandari, at [8]–[9].
71. Above n 1, at [453].
72. Above n 1, at [440]. See further M Young “International Adjudication and the Commons” (2019) 41 *University of Hawai’i Law Review* 353.
73. Above n 1, at [456].

74. Separate opinion of Judge Bhandari, at [10].
75. L Welwel and H Hodge “The Pacific won a stunning climate victory at the International Court of Justice. What’s next?” *ABC News* 14 September 2025 www.abc.net.au/news/2025-09-14/whats-next-after-pacific-icj-climate-victory/105747794.
76. M Young, “Australia in the International Court of Justice” in *International Law and Australia: From Empire to the Contemporary World*, M Chiam and A Duxbury (Eds), Hart, 2025, p 155.