

The Anthropocene Judgments project: A thought experiment in futureproofing the common law

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Abstract

We introduce here a new critical judgments project: the Anthropocene Judgments project. The project is intended to be an interdisciplinary, collaborative, visionary initiative, a collective effort on the part of legal scholars, writers of speculative fiction, literary scholars and climate scientists to anticipate what may lie ahead. Participants will engage in futuristic modelling and write judgments of, and for, the future – constructing innovative pathways of legal reasoning to address the novel, socio-legal and environmental challenges of the Anthropocene. In this article, we develop our ideas for the project, canvass possible directions for future judgment writing and explain the importance of this ambitious endeavour.

Keywords

Climate change, Anthropocene, judging, critical judgment projects, Earth jurisprudence, space law, youth rights

The Anthropocene, a term coined originally by Paul J Crutzen and Eugene F Stoermer in 2000,¹ is used to describe the current geological era, when human activity began to have a measurable and drastic impact on the planet's climate and ecosystems. The challenges confronting humanity, and indeed all lifeforms in the biosphere, are daunting. Existing legal systems are struggling to accommodate the range of unprecedented conundrums and dilemmas thrown up by the Anthropocene; these include the environmental, social and economic impacts of climate change, the ongoing collapse of natural systems, the sixth mass extinction and the implications of multiple technological incursions into everyday life. Governments are failing to engage in the visionary work required to plan for, let alone futureproof, our societal and environmental well-being and the well-being of nonhuman species.

The aims of this article are two-fold. First, we interrogate the role of law – and in particular, the common law – in our uncertain, climate-changing future. Drawing upon and extrapolating from previous judgment rewriting projects, we highlight the need for new legal imaginaries in addressing the challenges of the Anthropocene. Secondly, in response to this articulated need, we outline the scope and methodology of a novel project: the Anthropocene Judgments project. As an interdisciplinary, multi-jurisdictional exercise involving writers of speculative fiction, climate science modellers and legal scholars, the project is designed to envisage and pre-empt common law responses to the complex issues, wicked problems and existential challenges of the Anthropocene. Lawyers, writers, scientists and artists will collaborate in writing the judgments of the future.

¹Paul J Crutzen and Eugene F Stoermer, 'The "Anthropocene"' (2000) 41 *IGBP Newsletter* 17.

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We introduce here some of the key themes of the project; these include, but are not limited to, climate judging, judicial implementation of Earth laws and First Nations laws, extra-terrestrial judging and intergenerational judging.

Law in the Anthropocene

Legal scholars have postulated new legal models,² and new legal imaginaries,³ in responding to the technological, environmental and social challenges of the Anthropocene. The magnitude of the task is self-evident; hence, an interdisciplinary approach is required. Anna Grear observes that a legal imaginary for the Anthropocene, in contrast to the quasi-disembodiment and 'severed rationalism' which distinguish the ultimately catastrophic imaginary of the Anthropocene,⁴ 'mean[s] opening law ... to the sensory organs of the arts –with their unique capacity to dislodge and to re-invent imaginaries'.⁵

A legal imaginary for the Anthropocene must accommodate new thinking, in order to be able to comprehend and respond to the planetary scale of the issues at stake as well as local and bioregional challenges. Timothy Morton has pointed out that '[h]umanistic tools for thought at Earth magnitude are lacking, and often because we have deliberately resisted fashioning them'.⁶ Judges and legislators need to confront the daunting challenges presented by hyperobjects: phenomena 'that are massively distributed in time and space relative to humans'.⁷

The challenges facing life in the Anthropocene are significant: extensive environmental damage, including the impacts of runaway climate change and biodiversity loss, and an accelerating socio-economic gap between rich and poor. Future law will need to adjust and respond to growing social divisions in order to achieve just outcomes, as resources grow scarce, elites continue to control wealth and resources and the challenges of supporting human societies in changing and depleted natural environments generate a variety of legal and ethical issues. Lawmakers must 'zoom in' as well as out, to adopt a useful metaphor of historian Dipesh Chakrabarty.⁸ In the legal imaginary of the Anthropocene, issues of intra-species justice remain as imperative as those of interspecies justice, in which humanity as a geological force⁹ must be reckoned with. The challenge of regulating artificial intelligence will feature in future judging; so, too, will extra-terrestrial issues arising from interplanetary travel, exploration and extractivism.

As illustrated in the plethora of recent climate mitigation lawsuits, the common law has its own unique role to play in shaping new law and governance, and in addressing gaps created by a policy vacuum. This area has become a place of creative imagining, as evidenced in the judgment rewriting projects that have emerged in the last two decades. Judgment rewriting is now an established, critical methodology – one which amplifies marginalised voices, decentres legal hierarchies and highlights the plasticity and possibilities of the common law. Since the first published experiments in judgment rewriting in 2006,¹⁰ from the so-called 'Women's Court of Canada', the phenomenon has become widespread across numerous jurisdictions and many fields of law. We discuss the methodology of these projects in more detail below, in the penultimate section of this article.

Speculative judging in the Anthropocene: the Anthropocene Judgments project

In most judgment rewriting projects, participants have reshaped past judgments, drawing upon established legal principles. They are thus highlighting the transformative possibilities in *existing* common law. It is our contention, however, that the terrain of future, hypothetical judgments is also ripe for exploration by adventurous legal scholars: those prepared to engage with the imaginings of writers of speculative fiction and the future modelling of scientists.

In launching the Anthropocene Judgments project, we are challenging legal scholars to work in interdisciplinary teams with writers of fiction and scientists, in particular climate scientists, and to identify and respond to the pressing concerns of the near and distant future. In so doing, participants will think beyond the confines of existing legal principles and lawsuits and anticipate future developments. The project can be viewed as a companion exercise to that involved in the 2021 collection entitled *The Cabinet of Imaginary Laws*,¹¹ in which participants from a range of disciplines played with different genres to create imaginary legislation. Here, our focus is on judge-made future law.

The Anthropocene Judgments project will canvass a wide range of themes and issues. In the following sections, we address climate judging, the role of Earth laws and First laws, extra-terrestrial judging and intergenerational judging. Other themes and concerns not discussed below will, undoubtedly, surface in the project. We envisage, for instance, that the collection of judgments will include a Turing judgment: a judgment that purports to be written by an

²See, eg, Louis J Kotzé and Rakhyun E Kim, 'Earth System Law: The Juridical Dimensions of Earth System Governance' (2019) 1 *Earth System Governance* 100003; and Rakhyun E Kim, 'Taming Gaia 2.0: Earth System Law in the Ruptured Anthropocene' (2021) *The Anthropocene Review* <https://journals.sagepub.com/doi/full/10.1177/20530196211026721>.

³See Anna Grear, 'Legal Imaginaries and the Anthropocene: "Of" and "For"' (2020) 31 *Law and Critique* 351.

⁴Ibid 355.

⁵Ibid 360.

⁶Timothy Morton, *Dark Ecology: For a Logic of Future Coexistence* (Columbia University Press, 2016) 26.

⁷Timothy Morton, *Hyperobjects: Philosophy and Ecology after the End of the World* (University of Minnesota Press, 2013) 1.

⁸Dipesh Chakrabarty, 'The Human Significance of the Anthropocene' in Bruno Latour with Christophe Leclercq (eds), *Reset Modernity!* (MIT Press, 2016) 189, 198.

⁹See Dipesh Chakrabarty, 'The Climate of History: Four Theses' (2009) 35(2) *Critical Inquiry* 197.

¹⁰(2006) 18(1) *Canadian Journal of Women and the Law*.

¹¹Peter Goodrich and Thanos Zartaloudis (eds), *The Cabinet of Imaginary Laws* (Routledge, 2021).

artificial intelligence. The extent to which artificial intelligence can deliver justice is one of the potent questions to be explored in the project.

Climate judging in the Anthropocene

While the scope of the Anthropocene Judgments project is very broad, many judgments of the future will, inevitably, be centred around the climate crisis. In its future manifestations and permutations, the climate crisis raises questions that cannot be readily addressed within the boundaries of existing legal systems. Litigants are testing the limits and capacities of those legal systems in a barrage of contemporary climate lawsuits, largely to compel governments to take urgent action. Yet as three commentators have observed, climate change is 'legally disruptive',¹² in part because 'the issues presented fit awkwardly into existing and well-honed grooves of legal reasoning'.¹³ The most compelling issues of the climate crisis, some of which we highlight below, remain unresolved.

As the window of opportunity for mitigation rapidly shrinks, there will be an inevitable shift in focus for climate litigants. In August 2021, in a much-anticipated report,¹⁴ scientists set out a stark choice for humanity: act now or face the most unpalatable of consequences. This report, as United Nations Secretary-General António Guterres put it, is a 'code red for humanity'.¹⁵ Should governments continue to equivocate and procrastinate, climate lawsuits will increasingly take on a different complexion, with the primary focus upon climate adaptation and addressing impacts.

Such impacts are already apparent but will increase, exponentially, in frequency and magnitude as locked-in global warming takes effect, and we enter what Rakhun Kim has evocatively termed the 'ruptured Anthropocene'.¹⁶ We are already witnessing the arrival of ominous tipping points, a potential 'global cascade'.¹⁷ These include the looming collapse of the Gulf Stream and slowing of the Atlantic meridional overturning circulation;¹⁸ the transformation of the Amazon from a carbon dioxide sink to a source of emissions;¹⁹ and the thawing of the Arctic permafrost. We are also witnessing the advent of climate

disasters that have defied existing temporal predictions: catastrophic fires, extreme flooding events for which, as the German Chancellor put it, 'language barely has words'²⁰ and lethal heatwaves. Judges will have to arbitrate the impacts of climate change, apportioning blame and addressing restitution.

Changing land and seascapes will transform existing legal understandings and the legal status of asylum seekers: a development foreshadowed in a 2020 United Nations Human Rights Committee ruling,²¹ and in many works of fiction.²² Fraught questions of sovereignty and national identity, in the event of irreparable loss of territory, will need to be resolved at an international level as nation States are submerged and/or become uninhabitable. It will be incumbent upon jurists to identify national and international responsibilities in relation to the vast array of human rights impacted by climate change, including the right to life and the right to reproduce, and to articulate responsibilities in relation to the rights of the more-than-human.

How far will courts go to protect freedom of movement, for climate refugees seeking to cross international borders, and for internal climate refugees? We have already seen the Australian High Court uphold the legitimacy of hard state border closures during the pandemic.²³ It is not difficult to envisage similar closed borders in the climate-ravaged Australia of the future. In fact, this is precisely what Alice Robinson does in *The Glad Shout*,²⁴ and Clare Molleta in *Unsheltered*,²⁵ both recent works of climate fiction.

Public authorities and litigants will seek to extract damages from the most culpable parties, in lawsuits aligned with current actions against the Carbon Majors.²⁶ Prosecutions of such parties are also likely. The growing international movement for official recognition of the crime of ecocide, and the recent suggestion that the most egregious of climate criminals should be charged with the all-encompassing crime of omnicide,²⁷ foreshadow such punitive strategies. Judgments and sentences based on such offences may become commonplace.

Teasing out issues of climate criminality also necessitates the adjudication of law-breaking on the part of climate activists. Andreas Malm has presented a sustained argument

¹²Elizabeth Fisher, Eloise Scotford and Emily Barritt, 'The Legally Disruptive Nature of Climate Change' (2017) 80(2) *Modern Law Review* 173.

¹³*Ibid* 173.

¹⁴Valérie Masson-Delmotte et al (eds), *Climate Change 2021. The Physical Science Basis. Summary for Policymakers* (Intergovernmental Panel on Climate Change, 2021) https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM_final.pdf.

¹⁵United Nations, 'Secretary-General Calls Latest IPCC Climate Report "Code Red for Humanity", Stressing "Irrefutable" Evidence of Human Influence' (Media Release SG/SM/20847, 9 August 2021).

¹⁶Kim (n 2).

¹⁷Timothy M Lenton et al, 'Climate Tipping Points: Too Risky to Bet Against' (2019) 575 *Nature* 592.

¹⁸Niklas Boers, 'Observation-Based Early-Warning Signals for a Collapse of the Atlantic Meridional Overturning Circulation' (2021) 11 *Nature Climate Change* 680.

¹⁹Luciana V Gatti et al, 'Amazonia as a Carbon Source Linked to Deforestation and Climate Change' (2021) 595 *Nature* 388.

²⁰Philip Oltermann, 'Angela Merkel Says Germany Must Do More to Fight Climate Crisis', *The Guardian* (online, 19 July 2021) <https://www.theguardian.com/world/2021/jul/18/angela-merkel-to-visit-flood-ravaged-areas-in-germany>.

²¹Human Rights Committee, *Views: Communication No 2728/2016*, 127th sess, UN Doc CCPR/C/127/D/2728/2016 (23 September 2020) (*Teitiota v New Zealand*).

²²See, eg, Rohan Wilson, *Daughter of Bad Times* (Allen & Unwin, 2019).

²³*Palmer v Western Australia* [2021] HCA 5.

²⁴Alice Robinson, *The Glad Shout* (Affirm Press, 2019).

²⁵Clare Moleta, *Unsheltered* (Simon & Schuster, 2021).

²⁶Carbon Majors are the leading global producers of oil, natural gas, coal and cement.

²⁷See Danielle Celermajer, 'Omicide: Who is Responsible for the Gravest of All Crimes?', *ABC Religion and Ethics* (online, 3 January 2020) <https://www.abc.net.au/religion/danielle-celermajer-omicide-gravest-of-all-crimes/11838534>.

in support of acts of targeted property violence by activists.²⁸ In Kim Stanley Robinson's latest work of climate fiction, *The Ministry for the Future*, a key character offers a justification for such transgressions and for acts of violence against individuals.²⁹ This is articulated in similar terms to those used by activists when raising the common law defence of necessity or the statutory defence of extraordinary emergency: legal loopholes, or arguably black holes, which enable law breaking to prevent a greater evil or address an emergency.³⁰

Earth Laws and Indigenous First Laws

Future judgments could be based upon the adoption and implementation of Earth jurisprudence or Earth laws,³¹ Rights of Nature³² and ecological law.³³ The rise of Earth-centred law, and in particular the Rights of Nature, has catalysed innovative legal developments in the first decades of this century. Courtrooms around the world are recognising the rights of forests, rivers and other more-than-human entities.³⁴ As biodiversity and habitat loss escalate, and we face the moral and biophysical consequences of species extinction, there will need to be new approaches to reparations for loss, stopping unwanted developments and restoring communities of endangered species through 'rewilding'. In confronting diverse issues of multi-species justice, a key challenge for human judgment writers is to develop legal principles, and a legal language, which in the words of Robert Macfarlane 'recognizes and advances the animacy of the world'.³⁵ This is where the Anthropocene Judgments project can provide positive visioning for the common law: perhaps neither dystopian nor utopian, but something practical and responsive in between.

There is an urgent need to develop a pluralistic model of Earth laws for the Anthropocene, one which acknowledges and strengthens Indigenous leadership and incorporates Indigenous world views.³⁶ Judgments from the perspective of Indigenous peoples will play a critical role in the Anthropocene Judgments project. Indigenous 'First Laws', those laws that come from the land itself, and are reflected in the culture, legal system and practices of Indigenous and First Nations peoples, offer some of the most rigorous analyses of problems and ways forward.³⁷ As Irene Watson has put it, First Nations law or 'raw law' is underpinned by a

'relational philosophy';³⁸ it 'lives in all things and emanates love, caring and sharing, and respect for all things in the natural world'.³⁹ This perspective is a deeply important element within the judgments writing project; it invites and demonstrates non-Western thinking on the well-being of future generations, and deeper consideration of all life as being in relationship with people.

Extra-terrestrial judgments

Extra-terrestrial disputes will increasingly require adjudication. There are growing concerns about the plight of our cosmic neighbours and the manner in which we will govern ourselves in space. NASA has announced its plans to establish a permanent lunar base in 2024. There is projected, intense competition for lunar resources. As Alice Gorman points out, private corporations are driving exploration and colonisation initiatives in the current, highly gendered Space 4.0 narrative.⁴⁰

In the recently released *Declaration of the Rights of the Moon*, the drafters counter the prevailing perception of the Moon as a dead world ripe for exploitation and acknowledge the fundamental rights of the Moon as a 'sovereign natural entity in its own right'.⁴¹ Extra-terrestrial future judging might be a far more pragmatic and ruthless affair. In the corporate controlled world of Ian McDonald's science fiction *Luna* trilogy, the Moon is 'an offshore industrial outpost'⁴² and lunar law is wholly contractual and negotiable: 'our law prohibits nothing and permits anything, as long as it is agreed'.⁴³ This is a graphic acknowledgement of the Earth-bound limitations of common law, State sovereignty and human rights frameworks.

The Last Judgment

What is the judicial endgame?

Increasingly, in adjudicating youth climate lawsuits, judges are invoking the ominous dimensions of a world irrevocably transformed by runaway climate change. The plight of future generations, and indeed of today's youth, has been outlined in sobering terms. In May 2021, Justice Bromberg held that the federal Minister for the Environment, in exercising her statutory powers to approve a proposed

²⁸Andreas Malm, *How to Blow Up a Pipeline* (Verso, 2021).

²⁹Kim Stanley Robinson, *The Ministry for the Future* (Orbit, 2020) 99–100.

³⁰See discussion in Nicole Rogers, *Law, Fiction and Activism in a Time of Climate Change* (Routledge, 2019) 169–171; Nicole Rogers, 'Climate Activism and the Extraordinary Emergency Defence' (2020) 94 *Australian Law Journal* 217, 227–28.

³¹Thomas Berry, *The Great Work: Our Way into the Future* (Harmony/Bell Tower, 1999).

³²Craig M Kauffman and Pamela Martin, *The Politics of the Rights of Nature: Strategies for Building a More Sustainable Future* (MIT Press, 2021).

³³Kirsten Anker et al (eds), *From Environmental to Ecological Law* (Routledge, 2021).

³⁴See Alessandro Pelizzon, 'An Intergenerational Ecological Jurisprudence: The Supreme Court of Colombia and the Rights of the Amazon Rainforest' (2020) 2(1) *Law, Technology and Humans* 33.

³⁵Robert Macfarlane, *Underland: A Deep Time Journey* (Hamish Hamilton, 2019) 112.

³⁶See Erin O'Donnell et al., 'Stop Burying the Lede: The Essential Role of Indigenous Law(s) in Creating Rights of Nature' (2020) 9(3) *Transnational Environmental Law* 403.

³⁷Nicole Redvers et al, 'Indigenous Natural and First Law in Planetary Health' (2020) 11(2) *Challenges* 29.

³⁸Irene Watson, *Aboriginal Peoples, Colonialism and International Law: Raw Law* (Routledge, 2014) 13.

³⁹Ibid 12.

⁴⁰Alice Gorman, 'Moonwalking: When Other Worlds Belong to Women' (October 2021) *Griffith Review* 74: *Escape Routes* <https://www.griffithreview.com/articles/moonwalking>.

⁴¹Australian Earth Laws Alliance: *Declaration of the Rights of the Moon: Draft* (11 February 2021) <https://www.earthlaws.org.au/moon-declaration>.

⁴²Ian McDonald, *Luna: Wolf Moon* (Gollancz, 2017) 67.

⁴³Ian McDonald, *Luna: Moon Rising* (Gollancz, 2019) 373.

coalmine extension, owed a duty of care to avoid causing injury and harm to Australian children and teenagers. In one striking passage, he referred to climate inaction as ‘the greatest intergenerational injustice ever inflicted by one generation of humans upon the next’.⁴⁴ (The Full Court of the Federal Court is currently considering arguments put forward in appellate proceedings in this matter, held in October 2021.)

Youth climate activists have repeatedly framed the climate crisis as a ‘children’s rights crisis’.⁴⁵ Underlying youth climate litigation, and the interrelated phenomenon of youth climate activism, is a strong message of intergenerational reproach and condemnation. This message will only become amplified with time, as climate-related sufferings and deprivations manifest as concrete experiences for today’s youth and, indeed, for the as-yet unborn. Of interest, then, is to speculate upon the content of a Last Judgment, to borrow the title of the campaign behind a current Italian climate lawsuit.⁴⁶

For our purpose here, the Last Judgment refers to judgement visited by future generations upon our generation, and other generations complicit in the Great Acceleration.⁴⁷ Fictitious accounts of such a process, whether official or informal, can be found in Liz Jensen’s *The Uninvited*, in which the children of the future wreak havoc upon today’s adults and corporate infrastructure in an attempt to ‘force some monumental paradigm shift in mankind’s relationship to itself’;⁴⁸ and the trial in Doris Lessing’s *Shikasta*, in which multi-racial Youth Armies accuse their ‘erstwhile colonial perpetrators’⁴⁹ of laying waste to the world.⁵⁰

Judgment rewriting: A dynamic and evolving landscape

In our invitation to lawyers, scientists and creative thinkers to collaborate on judgment writing for the Anthropocene, we are departing from prevalent norms for judgment rewriting in existing critical judgment projects.

As we have already observed, the methodology of judgment rewriting is well established. Feminist judgment

projects, which entail the rewriting of judgments from a feminist perspective, have taken place and/or are ongoing in the United Kingdom (UK), Australia, the United States, Northern Ireland, Scotland, Aotearoa/New Zealand, India, Africa and Pakistan; there has also been a feminist international law judgments project.⁵¹ Other judgment rewriting projects have focused upon medical ethics, children’s rights and, in the Wild Law Judgment project and the current UK Earth Law Judgments project,⁵² the rights of nature. In 2021, a collection of Australian Indigenous legal judgments was published:⁵³ the outcome of a project designed to bring Indigenous voices into judicial decision making. In September 2021, an online critical judgments database was launched by the University of New South Wales.

The remit for participants in the feminist judgment projects has been straightforward, albeit challenging. Participants select existing judgments and rewrite them in ways that could be accommodated within the common law at the time the judgments were handed down. These are conventional judgments in all ways but one: the feminist perspective adopted by the hypothetical judges. In the 2010–14 Australian feminist judgments project, however, two Indigenous scholars contested the established traditions of judgment writing. Irene Watson rejected the methodology of the project, highlighting the need for judgment rewriting ‘outside the jurisdiction of the Australian common law and the sovereignty of the Australian state’.⁵⁴ Nicole Watson rewrote a shameful, legal episode from the 1930s as a healing exercise in historical revisionism on the part of a futuristic First Nations Court of Australia.⁵⁵

When it came to establishing the parameters of the Wild Law Judgment project, it was agreed by participants at the 2014 launch that rewriting judgments might not suffice; contributors could abandon existing laws or, in the words of Justice Brian Preston, ‘mould [them] to fit the earth’s demands’.⁵⁶ Furthermore, wild judgments could, and should, be envisaged as part of an experiment in future telling and future shaping. Consequently, hypothetical and futuristic judgments appear in this collection.⁵⁷ In the

⁴⁴*Sharma v Minister for the Environment* [2021] FCA 560 [293]

⁴⁵Greta Thunberg et al, ‘Three Years After Greta Thunberg’s Strike, Adults are Failing Children on a Global Scale’, *The New York Times* (online, 19 August 2021) <https://www.nytimes.com/2021/08/19/opinion/climate-un-report-greta-thunberg.html>.

⁴⁶*A Sud et al v Italy*; writ of summons filed in June 2021.

⁴⁷Will Steffen and his co-authors describe the Great Acceleration as ‘the dramatic change in magnitude and rate of the human imprint from about 1950 onwards’: Will Steffen et al, ‘The Trajectory of the Anthropocene: The Great Acceleration’ (2015) 2(1) *The Anthropocene Review* 81, 82.

⁴⁸Liz Jensen, *The Uninvited* (Bloomsbury 2012) 237.

⁴⁹Doris Lessing, *Shikasta: re Colonised Planet 5, Canopus in Argos: Archives* (Granada, 1981) 406.

⁵⁰*Ibid* 388.

⁵¹See available resources on, and publications from, the various judgment rewriting projects at <https://criticaljudgments.com/feminist-judgment-projects>.

⁵²The UK Earth Law Judgments Project, University of Sussex (Web Page) http://www.sussex.ac.uk/law/research/projects/earth_law.

⁵³Nicole Watson and Heather Douglas (eds), *Indigenous Legal Judgments: Bringing Indigenous Voices into Judicial Decision Making* (Routledge, 2021).

⁵⁴Irene Watson, ‘First Nations Stories, Grandmother’s Law: Too Many Stories to Tell’ in Heather Douglas et al (eds), *Australian Feminist Judgments: Righting and Rewriting Law* (Hart Publishing, 2015) 46, 53.

⁵⁵Nicole Watson, ‘In the Matter of Djaparri (Re Tuckiar) [2035] FNCA 1’ in Heather Douglas et al (eds), *Australian Feminist Judgments: Righting and Rewriting Law* (Hart Publishing, 2015) 442.

⁵⁶Brian Preston, ‘Writing Judgments “Wildly”’ in Nicole Rogers and Michelle Maloney (eds), *Law as if Earth really mattered: The Wild Law Judgment Project* (Routledge, 2017) 19, 24.

⁵⁷Brian Preston, ‘Green Sea Turtles by the Representative, Meryl Streef v The State of Queensland and the Commonwealth of Australia’ in Nicole Rogers and Michelle Maloney (eds), *Law as if Earth really mattered: The Wild Law Judgment Project* (Routledge, 2017) 31; Cormac Cullinan, ‘Great Barrier Reef v Australian Federal and State governments and others’ in Nicole Rogers and Michelle Maloney (eds), *Law as if Earth really mattered: The Wild Law Judgment Project* (Routledge, 2017) 39; Benedict Coyne, ‘The Fraught and Fishy Tale of Lungfish v The State of Queensland’ in Nicole Rogers and Michelle Maloney (eds), *Law as if Earth really mattered: The Wild Law Judgment Project* (Routledge, 2017) 56; Robert Cunningham, ‘Information Environmentalism and Biological Data: A Thought Experiment’ in Nicole Rogers and Michelle Maloney (eds), *Law as if Earth really mattered: The Wild Law Judgment Project* (Routledge, 2017) 355.

Indigenous Judgments project, judgment writers could also depart from the methodology of the feminist judgment projects, by ‘inventing a new method operating outside of legal doctrine to give voice to Indigenous people’.⁵⁸

In the Anthropocene Judgments project, participants will embark upon such imaginative forays into future law, or law as it could be, rather than adopting the more conventional methodology of rewriting existing judgments using accepted legal principles. The interdisciplinary scope of the project is also novel in the context of critical judgment projects.

Conclusion

It is incumbent upon legal scholars to highlight the reformist and adaptive potential of the common law. The Anthropocene Judgments project is envisaged as far more than a thought experiment. Like other collections of rewritten judgments, the Anthropocene judgments may play a pedagogical role; Isabelle Girardeau has explained how rewritten wild law judgments have enabled students at the University of Tokyo to ‘experiment with the transformative capacity of the process of judging in the Anthropocene’.⁵⁹ We anticipate that the Anthropocene judgments will have a broader political and cultural significance, beyond the classroom.

Judgments can serve as a mirror, reflecting back to us the realities and impacts of the extractivist modes of human thinking and action that have created the Great Acceleration. Judgments which address the most dire and ominous of future scenarios serve as warning catalyst, and

premonitory script. Judgments which chart pathways to divert us from such scenarios have similar functions and, through this device, the Anthropocene Judgments project can be viewed as a form of prefigurative politics.

Davina Cooper has characterised judgment rewriting projects as an aspect of ‘State play with revisions’,⁶⁰ and argued that such a framing ‘underscores the ambitious possibilities they open up’.⁶¹ By anticipating and responding to the challenges of the Anthropocene through the judgment writing process, we can play a constructive role in imagining and shaping a viable future.

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⁵⁸Nicole Watson and Heather Douglas, ‘Introduction’ in Watson and Douglas (n 53) 1, 1.

⁵⁹Isabelle Girardou, ‘Environmental Legal Education as if Earth Really Mattered: A Brief Account from Japan’ (2021) 8(1) *Asian Journal of Legal Education* 7, 17.

⁶⁰Davina Cooper, *Feeling Like a State: Desire, Denial and the Recasting of Authority* (Duke University Press, 2019) 160.

⁶¹Ibid.