Should governments and companies be legally obligated to protect people from climate change?

What they said…

'Children rely upon the Minister to avoid the potential harm they face'
Federal Court Justice Mordecai Bromberg ruling that the Minister for the Environment has a duty of care to protect Australian children from climate change

'No government can deliver solutions when its people are unable to recognise them or unwilling to accept them'
Dale Jamieson, professor of environmental studies and philosophy at New York University, commenting on the electorate's responsibility to support sound climate change policy

The issue at a glance

On May 27, 2021, the Federal Court of Australia ruled that the Minister for the Environment had a duty of care to protect Australian children from mining developments that contributed to climate change. https://www.sbs.com.au/news/the-australian-government-has-a-duty-of-care-to-protect-children-from-climate-harm-court-rules
On May 26, 2021, a court in the Netherlands found that the multinational oil company Royal Dutch Shell must reduce its CO2 emissions by 45 percent relative to 2019 levels. The ruling, which has application only in the Netherlands, attempts to impose an obligation on the company to protect the human rights of Dutch citizens from the harmful climate impacts caused by the sale of Shell products. https://reneweconomy.com.au/shell-exxon-and-chevron-stunned-by-courts-and-shareholders-in-climate-blitz/
These developments have contributed to the debate over the role of courts in determining the policies governments and corporations should adopt to reduce climate change.

Background

The information below has been abbreviated from the Wikipedia entry titled 'Climate change'. The full text can be accessed at https://en.wikipedia.org/wiki/Climate_change

Climate change
Since the mid-20th century, humans have had an unprecedented impact on Earth's climate system and caused change on a global scale.
The largest driver of warming is the emission of gases that create a greenhouse effect, of which more than 90 percent are carbon dioxide (CO2) and methane. Fossil fuel burning (coal, oil, and natural gas) for energy consumption is the main source of these emissions, with additional contributions from agriculture, deforestation, and manufacturing. The human cause of climate change is not disputed by any scientific body of national or international standing.
Temperature rise is accelerated or tempered by climate feedbacks, such as loss of sunlight-reflecting snow and ice cover, increased water vapour (a greenhouse gas itself), and changes to land and ocean carbon sinks.
While locations of warming vary, the patterns are independent of where greenhouse gases are emitted, because the gases persist long enough to diffuse across the planet. Since the pre-industrial period, global average land temperatures have increased almost twice as fast as global average surface temperatures. This is because of the larger heat capacity of oceans,

and because oceans lose more heat by evaporation. Over 90 percent of the additional energy in the climate system over the last 50 years has been stored in the ocean, with the remainder warming the atmosphere, melting ice, and warming the continents. The Northern Hemisphere and the North Pole have warmed much faster than the South Pole and Southern Hemisphere.

Impact on wildlife

Recent warming has driven many terrestrial and freshwater species poleward and towards higher altitudes. Higher atmospheric CO2 levels and an extended growing season have resulted in global greening, whereas heatwaves and drought have reduced ecosystem productivity in some regions. The future balance of these opposing effects is unclear. Climate change has contributed to the expansion of drier climate zones, such as the expansion of deserts in the subtropics. The size and speed of global warming are making abrupt changes in ecosystems more likely. Overall, it is expected that climate change will result in the extinction of many species.

The oceans have heated more slowly than the land, but plants and animals in the ocean have migrated towards the colder poles faster than species on land. Just as on land, heat waves in the ocean occur more frequently due to climate change, with harmful effects found on a wide range of organisms such as corals, kelp, and seabirds. Ocean acidification is impacting organisms who produce shells and skeletons, such as mussels and barnacles, and coral reefs; coral reefs have seen extensive bleaching after heat waves. Harmful algae bloom enhanced by climate change and eutrophication cause anoxia, disruption of food webs, and massive large-scale mortality of marine life. Coastal ecosystems are under particular stress, with almost half of wetlands having disappeared because of climate change and other human impacts.

Impact on human life

Health impacts include both the direct effects of extreme weather, leading to injury and loss of life, as well as indirect effects, such as undernutrition brought on by crop failures.[176] Various infectious diseases are more easily transmitted in a warmer climate, such as dengue fever, which affects children most severely, and malaria. Young children are the most vulnerable to food shortages, and together with older people, to extreme heat. The World Health Organization (WHO) has estimated that between 2030 and 2050, climate change is expected to cause approximately 250,000 additional deaths per year from heat exposure in elderly people, increases in diarrheal disease, malaria, dengue, coastal flooding, and childhood undernutrition. Over 500,000 additional adult deaths are projected yearly by 2050 due to reductions in food availability and quality. Other major health risks associated with climate change include air and water quality. The WHO has classified human impacts from climate change as the greatest threat to global health in the 21st century.

Climate change is affecting food security and has caused a reduction in global mean yields of maize, wheat, and soybeans between 1981 and 2010. Up to an additional 183 million people worldwide, particularly those with lower incomes, are at risk of hunger because of these impacts. The effects of warming on the oceans impact fish stocks, with a global decline in the maximum catch potential. Only polar stocks are showing an increased potential. Regions dependent on glacier water, regions that are already dry, and small islands are at increased risk of water stress due to climate change.

Most of the severe impacts are expected in sub-Saharan Africa and South-East Asia, where existing poverty is already exacerbated. The World Bank estimates that climate change could drive over 120 million people into poverty by 2030. Current inequalities between men and women, between rich and poor, and between different ethnicities have been observed to

worsen because of climate variability and climate change. An expert elicitation concluded that the role of climate change in armed conflict has been small compared to factors such as socio-economic inequality and state capabilities, but that future warming will bring increased risks.

Necessary reduction of greenhouse gases
Climate change impacts can be lessened by reducing greenhouse gas emissions and by enhancing sinks that absorb greenhouse gases from the atmosphere.
To limit global warming to less than 1.5 °C with a high likelihood of success, global greenhouse gas emissions need to be net-zero by 2050, or by 2070 with a 2 °C target.
This requires far-reaching, systemic changes on an unprecedented scale in energy, land, cities, transport, buildings, and industry. Scenarios that limit global warming to 1.5 °C often describe reaching net negative emissions at some point. To make progress towards a goal of limiting warming to 2 °C, the United Nations Environment Program estimates that, within the next decade, countries need to triple the reductions they have committed to in their current Paris Agreements; an even greater level of reduction is required to meet the 1.5 °C goal.

International climate agreements
Nearly all countries in the world are parties to the 1994 United Nations Framework Convention on Climate Change (UNFCCC). The objective of the UNFCCC is to prevent dangerous human interference with the climate system. As stated in the convention, this requires that greenhouse gas concentrations be stabilised in the atmosphere at a level where ecosystems can adapt naturally to climate change, food production is not threatened, and economic development can be sustained.

The 1997 Kyoto Protocol extended the UNFCCC and included legally binding commitments for most developed countries to limit their emissions. During Kyoto Protocol negotiations, the G77 (representing developing countries) pushed for a mandate requiring developed countries to "[take] the lead" in reducing their emissions, since developed countries contributed most to the accumulation of greenhouse gases in the atmosphere, and since per-capita emissions were still relatively low in developing countries and emissions of developing countries would grow to meet their development needs.

In 2015 all UN countries negotiated the Paris Agreement, which aims to keep global warming well below 1.5 °C and contains an aspirational goal of keeping warming under 1.5 °C. The agreement replaced the Kyoto Protocol. Unlike Kyoto, no binding emission targets were set in the Paris Agreement. Instead, the procedure of regularly setting ever more ambitious goals and reevaluating these goals every five years has been made binding. The Paris Agreement reiterated that developing countries must be financially supported. As of February 2021, 194 states and the European Union have signed the treaty, and 188 states and the EU have ratified or acceded to the agreement.

Internet information
On June 24, 2015, The Guardian published an article titled ‘Dutch government ordered to cut carbon emissions in landmark ruling’.
The report treats the ruling of a Dutch court requiring the Dutch government to adopt more rigorous emissions targets.
The full text can be accessed at
https://www.theguardian.com/environment/2015/jun/24/dutch-government-ordered-cut-carbon-emissions-landmark-ruling

On June 17, 2021, Renew Economy published a comment and analysis by Ketan Joshi titled 'Australia's government feels no duty of care towards young people on climate'. The article supports the Federal Court ruling that the minister has a duty of care to Australian children and is critical of the government's response to the ruling.
The full text can be accessed at https://reneweconomy.com.au/australias-government-feels-no-duty-to-care-towards-young-people-on-climate/

On May 27, 2021, The Conversation published an article by Laura Schuijers, Research Fellow in Environmental Law at the University of Melbourne, titled 'In a landmark judgment, the Federal Court found the environment minister has a duty of care to young people'.
The article explains the ruling and its significance.
The full text can be accessed at https://theconversation.com/in-a-landmark-judgment-the-federal-court-found-the-environment-minister-has-a-duty-of-care-to-young-people-161650

On May 27, 2021, Renew Economy published an article titled 'Shell, Exxon and Chevron stunned by courts and shareholders in climate blitz' which detailed the actions recently taken against Shell, Exxon, and Chevron and the response of these major oil producers.
The full text can be accessed at https://reneweconomy.com.au/shell-exxon-and-chevron-stunned-by-courts-and-shareholders-in-climate-blitz/

On May 26, 2021, BBC News published a report titled 'Shell: Netherlands court orders oil giant to cut emissions'
The article reports on the decision of the Dutch court that Shell must take stronger action against climate change.
The full text can be accessed at https://www.bbc.com/news/world-europe-57257982

On May 26, 2021, Forbes published an article titled '"Monumental Victory": Shell Oil Ordered To Limit Emissions In Historic Climate Court Case' which discussed some of the implications of the ruling by a Dutch court that Royal Dutch Shell had to adjust its emissions targets.
The full text can be accessed at https://www.forbes.com/sites/davidrvetter/2021/05/26/shell-oil-verdict-could-trigger-a-wave-of-climate-litigation-against-big-polluters/?sh=2f8647c91a79

On April 8, 2021, The Conversation published an article by Aoife Daly, Lecturer in Law at the University College Cork, Pernilla Leviner, Professor at the Stockholm University, and Rebecca Thorburn Stern, Professor of Public International Law at Uppsala University. The article is titled 'How children are taking European states to court over the climate crisis – and changing the law' and presents some of the details of the case brought against Portugal and others in November 2020 for breaching their human rights by failing to solve the climate crisis.
The full text can be accessed at https://theconversation.com/how-children-are-taking-european-states-to-court-over-the-climate-crisis-and-changing-the-law-158546

On February 12, 2021, The Conversation published a comment by Tim Stephens, Professor of International Law at the University of Sydney, titled 'Mr Morrison, please don't make empty promises: enshrine our climate targets in law'.

The piece argues for Australia's emissions targets to be given the force of law and claims they will be ineffectual if this is not done.
The full text can be accessed at https://theconversation.com/mr-morrison-please-dont-make-empty-promises-enshrine-our-climate-targets-in-law-155039

On February 11, 2021, Royal Dutch Shell issued a media release titled 'Shell accelerates drive for net-zero emissions with customer-first strategy'. The media release details some of the measures being taken by Shell to reduce its greenhouse gas emissions.
The full text can be accessed at https://www.shell.com/media/news-and-media-releases/2021/shell-accelerates-drive-for-net-zero-emissions-with-customer-first-strategy.html

On January 29, 2021, The Conversation published an article by Peter Burnett, Honorary Associate Professor, ANU College of Law, Australian National University, titled 'A major report excoriated Australia's environment laws. Sussan Ley's response is confused and risky'.
The article examines the findings of the review of the Environment Protection and Biodiversity (EPBC) Act, by former competition watchdog chair Professor Graeme Samuel. The review found that Australia's environment protection laws are seriously inadequate.
The full text can be accessed at https://theconversation.com/a-major-report-excoriated-australias-environment-laws-sussan-leys-response-is-confused-and-risky-154254

On December 16, 2020, Columbia CVlimate School's State of the Planet published an article by Renee Cho titled 'How Buying Stuff Drives Climate Change'. The comment and analysis places a major responsibility for climate change on the behaviour of consumers.
The full text can be accessed at https://news.climate.columbia.edu/2020/12/16/buying-stuff-drives-climate-change/

On September 10, 2020, The Conversation published an article by Laura Schuijers, Research Fellow in Environmental Law at the University of Melbourne, titled 'These Aussie teens have launched a landmark climate case against the government. Win or lose, it'll make a difference'.
The article details the class action filed in the Federal Court by eight young Australians aged 13-17 seeking an injunction to prevent federal Environment Minister Sussan Ley from approving a new coal project expansion.
The full text can be accessed at https://theconversation.com/these-aussie-teens-have-launched-a-landmark-climate-case-against-the-government-win-or-lose-itll-make-a-difference-145830

On July 27, 2020, The Conversation published an article by Jacqueline Peel, Professor of Environmental and Climate Law at the University of Melbourne, and Rebekkah Markey-Towler, Research assistant at the University of Melbourne, titled, '"A wake-up call": why this student is suing the government over the financial risks of climate change'.
The article details the case being brought by Katta O'Donnell – a 23-year-old law student from Melbourne – against the Australian government for failing to disclose climate change risks to investors in Australia's sovereign bonds.
The full text can be accessed at https://theconversation.com/a-wake-up-call-why-this-student-is-suing-the-government-over-the-financial-risks-of-climate-change-143359

On June 18, 2020, Politico published a comment by Dale Jamieson, Professor of Environmental Studies and Philosophy at New York University, titled 'Can Democracies beat climate change?'
The article considers some of the obstacles democracies face in long-term policy making.
The full text can be accessed at https://www.politico.eu/article/can-democracies-beat-climate-change/

On March 2, 2020, The Australian Institute of International Affairs published the text of a speech given by Paul Kelly titled 'The Coming Global Upheaval over the Policy and Politics of Climate Change'.
The speech outlines some of the pressures which stand in the way of effective international action on climate change.
The full text can be accessed at https://www.internationalaffairs.org.au/news-item/the-coming-global-upheaval-over-the-policy-and-politics-of-climate-change/

On November 8, 2019, Forbes published an article titled 'The Businesses That Are – And Are Not – Leading on Climate Change' which examines the progress toward emissions reduction being made by some of the world's largest corporations.
The full text can be accessed at https://www.forbes.com/sites/edfenergyexchange/2019/11/08/the-businesses-that-are--and-are-not--leading-on-climate-change/?sh=62676c4e7aa1

On June 12, 2019, The New Republic published a comment and analysis titled 'Climate Change Is the Symptom. Consumer Culture Is the Disease.' The article placed a large measure of the responsibility for climate change on the behaviour of consumers.
The full text can be accessed at https://newrepublic.com/article/154147/climate-change-symptom-consumer-culture-disease

Arguments for governments and companies being legally obligated to protect people from climate change

1. Governments and companies should be legally obligated to act to reduce climate change because it undermines human rights

Those who argue governments and companies should be held legally responsible for failing to act on climate change stress that environmental security is a human right that should be respected by all states. They further argue that the law should compel governments and companies to respect this human right by acting to reduce the impacts of climate change.
The United Nations has progressively recognised environmental security and protection from climate change as a human right. In 2008, the United Nations Human Rights Council (HRC) unanimously adopted Resolution 7/23, recognising that 'climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights.'
https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_23.pdf In 2009, the Office of the United Nations High Commissioner for Human Rights (OHCHR) released an analytical study identifying specific rights and groups of people likely to be adversely affected by climate disruptions. The report drew on the submissions of some 30 nations as well as United Nations Agencies and other organisations. It identified displaced persons, conflict and security risks, and the impaired rights of indigenous peoples, women, and children as major concerns. https://www.refworld.org/docid/498811532.html In June 2014, the OHCHR released a focus report on human rights and climate change – 'Mapping Human

Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment'. This report specified some of the already widely accepted human rights which are threatened by climate change. These include the rights to water, adequate food, health (particularly children's health), housing, sanitation, safe and clean living conditions, and, as a summary statement, the right to life and physical integrity. Though these threats to human rights were presented as affecting the entire human population, the 2014 report also noted that vulnerable groups were particularly at risk, including displaced people and those already living in poverty. The report referred to a range of strategies the nations of the world could employ to reduce greenhouse gas emissions and lessen the impact of climate change. https://tinyurl.com/4c5ccr4t

Subsequently, court rulings in the Netherlands and Australia have made governments and companies legally responsible for acting to reduce the impact of climate change on the human rights of citizens and consumers. In June 2015, a court in The Hague ordered the Dutch government to cut its emissions by at least 25 percent within five years. Dennis van Berkel, legal counsel for Urgenda, the group that brought the suit, stated, 'This is the first time a court has determined that states have an independent legal obligation towards their citizens [to reduce climate change].' The suit was brought under human rights and tort law, accusing the Dutch government of violating both. https://www.theguardian.com/environment/2015/jun/24/dutch-government-ordered-cut-carbon-emissions-landmark-ruling Four years later, in December 2019, the Supreme Court of the Netherlands confirmed the previous ruling, ordering the government to cut the nation's greenhouse gas emissions by 25 percent from 1990 levels by the end of 2020. Kees Streefkerk, the chief justice, said in the decision, 'the lives, well-being and living circumstances of many people around the world, including in the Netherlands, are being threatened'. https://www.nytimes.com/2019/12/20/climate/netherlands-climate-lawsuit.html Eighteen months later, on May 25, 2021, a Dutch court ruled that Royal Dutch Shell must cut its CO2 emissions by 45 percent compared to 2019 levels. https://www.bbc.com/news/world-europe-57257982 This is the first time a court has required a fossil fuel company to change its policy based on a citizen class action complaint regarding climate change.

On May 26, 2021, the Federal Court of Australia also made a ruling regarding government responsibility re climate change. The court ruled that environment minister Sussan Ley has a legal duty of care to safeguard Australian children and teenagers, as well as the environment, from the impacts of climate change. Justice Mordecai Bromberg stated that under national environment law, the minister must consider the 'avoidance of personal injury' when deciding whether to approve future mining projects. He stated, 'The quality of life, opportunities to partake in nature's treasures, the capacity to grow and prosper — all will be greatly diminished…Trauma will be far more common and good health harder to hold and maintain.'

https://www.globalcitizen.org/en/content/australian-court-duty-of-care-environment/?template=next

In a comment published in The Conversation on June 1, 2021, Arthur Petersen, Professor of Science, Technology and Public Policy, at University College London stated, 'The interpretation of human rights has internationally moved to include climate change. And any government, business, or organisation can be held accountable by potential victims for preventing too large a climate change from happening.' https://theconversation.com/shell-ordered-to-cut-its-emissions-why-this-ruling-could-affect-almost-any-major-company-in-the-world-161754

2. Companies are reluctant to protect consumers from climate change

Critics argue that fossil fuel-producing companies have been slow to enact policies to reduce climate change. Those who support these companies being held legally accountable for their production policies argue they should be compelled to sell safer products and not threaten the physical environment and the well-being of consumers. They claim these companies have deliberately spread climate change misinformation and have put profits ahead of community and global welfare.

Critics of fossil fuel-producing companies claim the actions currently being taken by these companies are not sufficient to reduce the dangers of climate change. In October 2020, the Transition Pathway Initiative (TPI) issued a report which stated that none of Europe's largest oil, gas, and coal companies are on track to limit global warming to within 2 degrees Celsius. The TPI is a global program based at the London School of Economics, which assesses climate risks and companies' preparedness for a low-carbon economy. It oversees the operation of companies with a combined worth of more than $22 trillion. Only seven out of 59 companies studied have set emissions reduction targets in line with pledges made in the Paris Agreement. The TPI stated that only three of the 59 companies studied are approaching targets that would hold an increase in global temperature at 2 degrees Celsius 'but still need further measures to be assessed to align with this benchmark'. https://www.bloomberg.com/news/articles/2020-10-06/fossil-fuel-firms-aren-t-doing-enough-on-emissions-funds-say TPI's research also indicates that North American companies are making less effort than those based in Europe to reduce CO2 emissions. Neither of the two United States oil giants, Exxon Mobil Corp. and Chevron Corp., have overarching emissions goals. On the contrary, an analysis of internal documents reviewed by Bloomberg Green shows that Exxon Mobil has been planning to increase annual carbon dioxide emissions by as much as the output of the entire nation of Greece. https://www.bloomberg.com/news/articles/2020-10-06/fossil-fuel-firms-aren-t-doing-enough-on-emissions-funds-say On May 27, 2021, Sustainable Future reported, 'None of the world's largest oil and gas companies has disclosed how they will achieve the target of becoming a net-zero enterprise by 2050, more than five years after the Paris Agreement was ratified by nearly 200 countries.' https://www.cnbc.com/2021/05/27/big-oil-defeats-represent-a-watershed-moment-in-the-climate-battle.html It has been claimed that the greater profitability of hydrocarbons remains a key factor in discouraging fossil fuel companies from greater investment in renewables. Internal rates of return (IRRs), the standard commercial measure of an investment's profitability, are around 15 to 20 percent on hydrocarbons. Typical IRRs on renewables are around 5 to 6 percent. Profitability continues to prompt increased fossil fuel development. BP, for example, will start up seven major new hydrocarbon production projects in 2022, with at least three more in 2023 or later. https://www.theguardian.com/commentisfree/2021/may/25/big-oil-companies-profit-green-renewables-fossil-fuels-net-zero

Critics have further noted that historically fossil fuel-producing companies have ignored warnings of climate change caused by burning fossil fuels. Documents show that the United States petroleum industry was warned of the global warming impact of petroleum products at the end of the 1950s. By 1968 the American Petroleum Institute had received a report it had commissioned which stated that carbon dioxide emissions were already affecting the earth's climate and would continue to do so without significant changes being made in global fuel production and use. https://www.theguardian.com/environment/climate-consensus-97-per-cent/2018/jan/01/on-its-hundredth-birthday-in-1959-edward-teller-warned-the-oil-industry-about-global-warming Despite this, it has been claimed that fossil fuel producers continued with their then production model and by 1995 actively opposed the findings of the Intergovernmental Panel on Climate Change. At Exxon Mobil's annual meeting in 1999, then-CEO Lee Raymond denigrated models predicting fossil-fuel-generated climate change

as ‘based on completely unproven climate models, or, more often, on sheer speculation.’ This was said even though the models reflected the company’s own research findings. https://www.latimes.com/business/hiltzik/la-fi-hiltzik-exxonmobil-20170822-story.html As further evidence of the need to enforce the obligations of fossil fuel producers, it has been claimed that historically they have sought to mislead the public and alter government policy by promoting climate change denial. A 2019 Influence Map report found that ‘the five largest publicly-traded oil and gas majors (ExxonMobil, Royal Dutch Shell, Chevron, BP, and Total) have invested over $1Bn of shareholder funds in the three years following the Paris Agreement on misleading climate-related branding and lobbying.’ https://www.climaterealityproject.org/blog/climate-denial-machine-how-fossil-fuel-industry-blocks-climate-action Additionally, fossil fuel producers have funded and, in some instances, created supposedly independent think tanks such as the Cato Institute, the Heritage Foundation, and the Heartland Institute, which have promoted the view that climate change is not man-made and does not pose a serious threat. Kert Davies, the director of the Climate Investigations Center noted, ‘You can definitely credit Exxon and Koch brothers' money for giving the think tanks the megaphone to keep climate science denial in the world.’ https://www.climaterealityproject.org/blog/climate-denial-machine-how-fossil-fuel-industry-blocks-climate-action

3. Governments are reluctant to protect citizens from climate change

Those who argue that governments should be legally obliged to adopt policies that reduce greenhouse gas emissions claim they are currently doing too little. Rather than governments acting to lower emissions, it is asserted that governments worldwide continue to financially support fossil fuel producers and approve new fossil fuel projects. Legal actions taken in the Netherlands and Australia have resulted in rulings obliging governments to reduce their emissions targets to protect the health of citizens or to factor in the wellbeing of children when approving new hydrocarbon projects.

One of the key means through which governments support fossil fuel producers is by subsidies. On June 7, 2021, Human Rights Watch noted, ‘Government financial support for fossil fuels…presents a key obstacle to achieving emissions reductions urgently needed to address the climate crisis. Subsidies artificially reduce the costs of fossil fuel production and use, driving continued fossil fuel dependence at a time when governments should be rapidly transitioning away from fossil fuels toward clean, renewable energies like wind and solar.’ https://www.hrw.org/news/2021/06/07/qa-fossil-fuel-subsidies Fossil fuel subsidies often take the form of tax breaks or direct payouts. But they can also include price controls, loan guarantees, research and development funding, and measures that allow fossil fuel producers to avoid paying the cost of complying with environmental regulations, for example where governments provide funds for fossil fuel companies to reduce their emissions. Consumer subsidies reduce the cost of burning fossil fuels for energy. Producer subsidies targeted at companies reduce the cost of coal, oil, and gas exploration, transport (pipelines, shipping), and related processing/infrastructure (LNG terminals, refineries, etc.). Support for carbon capture, utilization, and storage (CCUS) often functions as a fossil fuel producer subsidy, because most captured carbon is injected into wells as a means of extracting more oil. https://www.hrw.org/news/2021/06/07/qa-fossil-fuel-subsidies

This is a worldwide phenomenon. The Organisation for Economic Co-operation and Development’s [OECD] 2019 analysis of budgetary transfers, tax breaks, and spending programs linked to the production and use of coal, oil, gas, and other petroleum products shows that total fossil fuel support rose by 5 percent to $US178 billion that year. https://www.oecd.org/fossil-fuels/ The increase in support was driven by a 30 percent rise in direct and indirect support for the production of fossil fuels, primarily in OECD countries. Oil

and gas industries received additional support, mostly through direct government grants to reduce corporate debt and support fossil-fuel infrastructure investments. Tax provisions gave favourable treatment to fossil fuel companies. This trend continued in 2020, with many countries financially assisting fossil fuel industries after the drop in fuel prices caused by COVID-19. Governments worldwide missed an opportunity to use the COVID crisis as a catalyst to encourage investment in renewables. https://www.oecd.org/fossil-fuels/
This pattern of government support for fossil fuel producers is well developed in Australia. On April 26, 2021, the Australian Institute published a report stating that in 2020-21, Australia paid $10.3 billion in government subsidies to fossil fuel producers. The report noted, 'In 2020, this [subsidy rate] equates to $19,686 per minute effectively given to coal, oil and gas companies and major users of fossil fuels.' State Governments spent $1.2 billion mainly through subsidising exploration, refurbishing coal ports, railways, and power stations, and funding 'clean coal' research. https://australiainstitute.org.au/post/australian-fossil-fuel-subsidies-hit-10-3-billion-in-2020-21/ Rod Campbell, Research Director at The Australia Institute, has stated, 'A few years ago such subsidies would have been announced quietly, but now they're central to government policy. Australia is increasing fossil fuel subsidies, while the Biden administration is committing to phase them out…From a climate perspective, this is inexcusable and from an economic perspective it is irresponsible.'
https://australiainstitute.org.au/post/australian-fossil-fuel-subsidies-hit-10-3-billion-in-2020-21/
Australia also continues to expand fossil fuel developments. A December 2020 United Nations report found Australia is the world's third-largest exporter of fossil fuels. The United Nations' analysis highlights the Australian government's plans to increase fossil fuel production, mostly for export. The report claims that the increases in fossil fuel production planned worldwide would make it impossible to achieve the emissions reductions needed to contain global warming. https://www.smh.com.au/environment/climate-change/un-report-rightfully-shames-australia-over-fossil-fuel-plans-20201202-p56jxw.html
Critics of government assistance to fossil fuel producers and government-approved increases in fossil fuel production have taken legal action. In 2015, the district court in The Hague ruled that the Dutch government must 'do more to avert the imminent danger caused by climate change.' Commenting on the landmark Dutch ruling, Carroll Muffett, the president, and CEO of the Centre for International Environmental Law, stated, 'The case reflects a growing awareness among people worldwide that the failure to act on climate change violates fundamental principles of human rights.' https://ourworld.unu.edu/en/court-tells-dutch-government-it-must-cut-back-emissions In a similar landmark judgment, on 27 May 2021, the Federal Court of Australia ruled that the Federal Minister for the Environment owed a duty of care to all Australian children to avoid causing them personal injury because of increased carbon dioxide emissions.
https://www.jonesday.com/en/insights/2021/06/australian-federal-court-rules-the-government-owes-duty-of-care-to-children

4. Children need to be protected from government and commercial neglect
Those who argue that governments and companies should be legally obligated to reduce the risks of climate change argue that this is particularly necessary to protect the human rights of children. They claim that children carry a disproportionate climate change burden now and into the future. They also argue that children are a disenfranchised group whose rights are easily ignored by governments and companies. This situation, it is maintained, requires legal obligations being placed on governments and companies to protect children from climate change.

It has been claimed that children are particularly endangered by climate change. UNICEF (the United Nations Children's Fund) has explained the immediate, annual risks children face. It states, 'Climate change puts children's most basic rights at risk, seriously affecting their access to health, food, water, clean air, education, and protection. Around the world, the growing number of extreme weather events is putting more and more children's lives in danger. Every year, environmental factors take the lives of 1.7 million children under five.' https://www.unicef.org.uk/what-we-do/children-and-climate-change/
Explaining why these harms disproportionately affect children, UNICEF has stated, 'The dangers of climate change are more pronounced for children than for adults. Children are more vulnerable to vector-borne diseases than adults. They face greater dangers from undernutrition and diarrheal diseases. The physical dangers of extreme weather events – flooding, building collapse, and more – pose unique threats to young bodies and minds. If, as expected, climate change worsens each of these risks, it is children who will suffer most. Children will also feel these effects longer than adults, making them vital in today's decisions about climate change responses.' https://tinyurl.com/unjbxp7r
UNICEF has also stressed that not only are children being endangered now but their rights to environmental security are also being endangered into the future. It states, 'For an even greater number of children, these events mean a reduced chance of a happy, healthy future. When floods hit, schools and health clinics are destroyed. When droughts occur, children spend less time in school because they have to walk miles to collect water. Rising sea levels and toxic air pollution turn children's communities into hazardous environments to grow up in.' https://www.unicef.org.uk/what-we-do/children-and-climate-change/ This point was also made on May 25, 2021, by an Australian Federal Court ruling which stated, 'It is difficult to characterise in a single phrase the devastation that the plausible evidence presented in this proceeding forecasts for the children. As Australian adults know their country, Australia will be lost and the world as we know it gone as well.
The physical environment will be harsher, far more extreme, and devastatingly brutal when angry. As for the human experience – quality of life, opportunities to partake in nature's treasures, the capacity to grow and prosper – all will be greatly diminished.' https://theconversation.com/in-a-landmark-judgment-the-federal-court-found-the-environment-minister-has-a-duty-of-care-to-young-people-161650
Critics of government and corporate inaction on climate change argue that children are particularly vulnerable to having their stake in this issue ignored. UNICEF, commenting on the United Nations Convention on the Rights of the Child, states, 'Children generally do not vote and do not traditionally take part in political processes. Without special attention to the opinions of children – as expressed at home and in schools, in local communities and even in governments – children's views go unheard on the many important issues that affect them now or will affect them in the future.' https://www.unicef.org/child-rights-convention/child-rights-why-they-matter Critics have noted that without the right to vote, children's opinions are given little weight by many politicians. Following an Australian student strike on climate change in November 2018, Melbourne student Jagveer Singh stated, '[We want to] demonstrate that we're not happy with the federal government for not listening to us and demand that we get a safe climate…It's our future. We are the ones that will be facing the consequences of the decisions that are made today.' https://www.sbs.com.au/news/students-hit-back-at-pm-after-less-activism-in-schools-climate-change-comment
Youth environmental activists have also condemned corporations for discounting the world's children. Critics note that as children are not stockholders and do not sit on boards they are easily ignored. Speaking to the annual World Economic Forum (WEF) meeting in Davos, Switzerland, in January 2020, young environmental activist, Greta Thunberg, noted, 'We demand, at this year's World Economic Forum, participants from all companies, banks,

institutions, and governments immediately halt all investments in fossil fuel exploration and extraction, immediately end all fossil fuel subsidies, and immediately and completely divest from fossil fuels.' She concluded, 'Your inaction is fueling the flames by the hour, and we are telling you to act as if you loved your children above all else.' https://gizmodo.com/greta-thunbergs-message-to-capitalists-act-as-if-you-l-1841130508 Thunberg's demand was not met.

5. Citizen action is not sufficient to protect against climate change

Those who argue that governments and corporations should be legally obliged to address climate change claim that large, systemic action is necessary that is beyond the scope of individual citizens.

Many environmentalists argue that consumers use fossil fuels to meet basic needs and that until less polluting alternative fuels are available, it is very difficult for individuals to reduce their carbon footprint. This recognition places responsibility on fuel-producing companies to change their production model and supply alternative fuels. It also places them under an obligation not to invest further in polluting technologies. While no one argues that consumers do not have a responsibility to reduce their consumption of fossil fuels, it is claimed that they need to be given viable low-polluting alternatives. Richard Heede, the co-founder and co-director of the Climate Accountability Institute, has stated, '[Fossil fuel-producing companies] have some responsibility for mitigating and transforming the carbon economy because they're in the driver's seat about which resources are extracted and marketed.' https://www.vox.com/the-goods/2018/10/12/17967738/climate-change-consumer-choices-green-renewable-energy The claim has similarly been made that governments are responsible for creating circumstances that will aid the citizen consumer to make consumption choices that reduce greenhouse gas emissions.

It has also been argued that government and corporate policies have created a structural environment where it is difficult for the citizen consumer to make low emissions choices. In an article published in Refinery29 on September 25, 2020, Whizy Kim explained some of the obstacles that prevent many Americans from giving up their petrol cars. He wrote, 'The post-WWII era was dizzy with incentives, policies, and mass infrastructure projects that made owning a car much more feasible and attractive than in other nations. To this day, a stunning variety of laws help maintain a landscape where having your own car is either the safer, cheaper option or the only option. U.S. cities with well-connected, affordable public transportation remain extremely rare, partly because public works, in general, are underfunded, but also because groups that have a stake in the auto or fossil fuel industry use their piles of money to help ensure they don't get built.' https://www.refinery29.com/en-us/2020/09/10029103/can-companies-individuals-stop-climate-change

A similar complaint regarding the private sector's failure to support reduced emissions can be made regarding Australia's uptake of solar-generated power. Australian consumers have enthusiastically adopted solar panels to supply their homes with electricity. In 2019, small-scale solar (systems up to 100 kW) was responsible for 22.3 percent of Australia's clean energy generation and produced 5.3 percent of the country's total electricity. https://www.cleanenergycouncil.org.au/resources/technologies/solar-energy However, critics claim that this success is being restricted because of corporate neglect. In March 2021, thousands of Victorian homeowners installing solar power panels were told by the state's distributors they would not be able to feed electricity into the network. Householder-generated solar power is now more than the grid can sustain. This overload has occurred despite regulators having warned the private distributor companies for over ten years that they needed to upgrade distribution networks.

https://www.theage.com.au/politics/victoria/power-failure-homes-hit-by-solar-limits-as-

distributors-protect-network-and-profits-20210311-p579xz.html The Australian Energy Market Commission (AEMC) is now warning that Australians could be charged for exporting solar to the grid to help cope with electricity 'traffic jams.' Critics have complained that a lack of investment by private distributors is threatening householders' use of solar power. https://www.abc.net.au/news/science/2021-03-30/solar-power-electricity-should-owners-pay-to-supply-grid/100035198

It has further been argued that without government support, some low-emissions changes will be beyond most consumers. This point has been made regarding Australia's low uptake of electric vehicles (EVs). Currently, the cost of importing electric cars into Australia makes them an unrealistic option for many Australians. Most motorists favour EVs; however, want the government to establish consumer subsidies to make it possible for them to buy these vehicles. Survey results released by The Australia Institute in March 2021 stated, 'Two in three Australians (62 percent) agree that the government should introduce subsidies for the purchase of EVs.' The results also indicated 'Over half of Australians (57 percent) support a ban on the sale of new fossil-fueled vehicles from 2035.' https://australiainstitute.org.au/post/majority-of-australians-support-ev-policies-including-subsidies-for-new-car-purchases/ Federal MP Zali Steggall has noted, 'Australia is behind the rest of the world. Only 0.7 percent of new cars sold in Australia are electric vehicles. In Norway, 75 percent of all new cars sold are electric vehicles.' https://australiainstitute.org.au/post/majority-of-australians-support-ev-policies-including-subsidies-for-new-car-purchases/ It is argued that unless the move to EVs is assisted by government policy it is unlikely to occur in numbers large enough to affect emissions.

Those who support governments and corporations being legally obliged to promote emissions reduction argue that without their support private citizens cannot do enough to significantly reduce climate change.

Arguments against governments and companies being legally obligated to protect people from climate change

1. Corporations and governments are already taking action to reduce the impact of climate change

Those who claim that businesses and governments do not need to be legally obliged to reduce greenhouse gas emissions note that both are already working to reduce climate change. Their supporters note that many major corporations are already taking independent action to achieve this end. By November 2018, 2,200 businesses and investors – including corporations such as Walmart, Hewlett Packard, Dropbox, and Apple – had announced their commitment to the Paris Agreement, pledging to hold temperature increases to no more than 2 degrees Celsius above pre-industrial levels. https://www.forbes.com/sites/edfenergyexchange/2019/11/08/the-businesses-that-are--and-are-not--leading-on-climate-change/?sh=62676c4e7aa1 In 2018, McDonalds, one of the corporations that pledged its support for the Paris Agreement, set a goal to reduce its greenhouse gas emissions by 36 percent for its restaurants and offices by 2030. McDonalds operates 38,000 restaurants in over 100 countries—which include both franchised and company-owned restaurants. https://www.evwind.es/2020/06/24/why-mcdonalds-is-powering-up-with-wind-energy/75312

In December 2020, McDonalds signed three new virtual power purchase agreements (PPA) for two wind farms and one portfolio of solar projects in the United States. The virtual PPA will total 1,130 MW (547 MW wind, 583 MW solar). A single MW (megawatt) is estimated to be sufficient to power between 400 and 900 homes for a year. https://www.solarpowerworldonline.com/2020/12/mcdonalds-signs-three-more-virtual-ppas-

for-1-13-gw-of-renewable-power/ McDonalds has stated that its PPAs in the United States are only the first stage in its plan to meet its emissions target. Similarly, in September 2019, Microsoft announced its purchase of a total of 230 MW from two ENGIE projects in Texas, bringing Microsoft's renewable energy portfolio to more than 1,900 MW. This is enough to power 1.5 million United States homes.
https://www.forbes.com/sites/edfenergyexchange/2019/11/08/the-businesses-that-are--and-are-not--leading-on-climate-change/?sh=62676c4e7aa1 In August 2020, Walmart announced that more than 2,300 of its suppliers had signed on to Project Gigaton.
https://www.supplychaindive.com/news/walmart-suppliers-project-gigaton-sustainability/584235/ Project Gigaton is an initiative between Walmart, environmental groups, and Walmart's suppliers to cut a billion tons of greenhouse gas pollution from the company's global supply chain by 2030. In November 2019, it had already resulted in nearly 94 million metric tons of avoided emissions.
https://www.forbes.com/sites/edfenergyexchange/2019/11/08/the-businesses-that-are--and-are-not--leading-on-climate-change/?sh=62676c4e7aa1
Major fossil fuel-producing companies have also argued that they do not need to be threatened with legal liability. They claim they are already taking action to ensure that the Paris Agreement reduction in emissions can be met.
Following the Dutch court ruling binding the Royal Dutch Shell to reduce its CO2 emission levels by 45 percent from those in 2019, Shell stated, 'We have [already] accelerated our efforts to become a net-zero emissions energy company by 2050, in step with society, with short-term targets to track our progress…
We are investing billions of dollars in low-carbon energy, including electric vehicle charging, hydrogen, renewables, and biofuels. We want to grow demand for these products and scale up our new energy businesses even more quickly.'
https://www.forbes.com/sites/davidrvetter/2021/05/26/shell-oil-verdict-could-trigger-a-wave-of-climate-litigation-against-big-polluters/?sh=5257e09e1a79
Supporters of Royal Dutch Shell argue that it and other major oil producers do not need legal compulsion to work toward reducing CO2 emissions. On February 11, 2021, over a month before the court's ruling, Shell had announced its strategy to accelerate its transformation into a provider of net-zero emissions energy products and services. Shell confirmed its expectation that total carbon emissions for the company peaked in 2018, and oil production peaked in 2019. Shell stated its aim to build low-carbon businesses of significant scale by the early 2030s. https://www.shell.com/media/news-and-media-releases/2021/shell-accelerates-drive-for-net-zero-emissions-with-customer-first-strategy.html
It has also been claimed that governments do not need to be compelled to work to limit climate change as most are already striving to reduce greenhouse gas emissions to bring this about.
In December 2020, the World Economic Forum stated that 25 countries and the EU were working toward some sort of net-zero commitment (in many cases by 2050, though some countries such as Denmark and Finland have earlier deadlines). Several Asian economic powers made net-zero commitments in 2020, including South Korea and Japan (by 2050) and China — the world's largest emitter — by 2060.
https://www.weforum.org/agenda/2020/12/paris-agreement-climate-change/
The Australian government, for example, despite facing criticisms from other nations for not having done sufficient, has defended its record, noting the additional $2bn spread over 15 years it has directed to help businesses and farmers reduce emissions, bringing total government investment to $4.5bn. The Australian government claims this investment will deliver 100 million tonnes of emissions reductions. https://www.bbc.com/news/world-australia-50869565

In February 2020, the Australian Prime Minister Scott Morrison stated, 'In Australia, we've reduced emissions by 12.8 percent. We've been leading the world on renewable energy investment… We've got our investments in the Snowy Hydro 2.0 project, the Marinus Link to Tasmania, the Battery of the Nation. We've got $500 million invested in power research.' https://www.triplem.com.au/story/prime-minister-scott-morrison-defends-his-government-s-record-on-climate-change-156556

2. Reducing the effects of climate change is the responsibility of citizens and consumers
Those who dispute that corporations and governments should be legally obliged to reduce climate change argue that this is primarily the responsibility of customers and citizens. Corporations argue that while they produce products that release carbon dioxide into the atmosphere, the choice to use these products and the way they are used is made by the individual consumer. When defending itself in court at The Hague, Dutch Royal Shell argued consumers such as motorists are just as responsible for the choices they make, and producers should not be penalised disproportionately. Shell noted that even at the height of coronavirus-induced lockdowns and travel bans, oil consumption only fell by around a quarter, which they claimed indicates the strength of consumer demand. Shell claims it is responding to what consumers want and that it seeks to move 'in step with society'. https://www.ft.com/content/04a0ab91-0853-4888-b3e3-fb0244181dc4 This point was made by Renee Cho in an opinion piece published by Columbia Climate School's State of the Planet on December 16, 2020. Cho stated, 'Our consumer habits are actually driving climate change. A 2015 study found that the production and use of household goods and services were responsible for 60 percent of global greenhouse gas emissions.' https://news.climate.columbia.edu/2020/12/16/buying-stuff-drives-climate-change/ A similar point was made in a report released four years later in 2019. C40 Cities, a network of 94 of the world's biggest cities, issued a report estimating how much consumption habits drive the climate crisis. In those nearly 100 cities, where a combined 700 million live, the consumption of goods and services 'including food, clothing, aviation, electronics, construction and vehicles' was responsible for 10 percent of global greenhouse gases in that year. https://newrepublic.com/article/154147/climate-change-symptom-consumer-culture-disease The C40 Cities report placed a large measure of responsibility on individual consumers to change their behaviour. It stated, 'It is…largely up to individuals to decide how many new items of clothing to buy, whether they should own and drive a private car, and how many personal flights to take.' https://newrepublic.com/article/154147/climate-change-symptom-consumer-culture-disease Renee Cho further noted that much of what is purchased by those living in wealthy nations are non-essentials. She claims, 'After basic needs are met, consumers begin buying items for social status; as people try to acquire more and more status, more and more expensive status products are needed. Producing all these things generates climate-changing greenhouse gas emissions.' https://news.climate.columbia.edu/2020/12/16/buying-stuff-drives-climate-change/ Relatedly, it has been claimed that the behaviour of consumers will influence the conduct of corporations. Companies, it is claimed, will cease to produce what customers refuse to buy. A 2019 Nielsen survey found that 73 percent of global consumers would change their consumption habits to reduce their environmental impact, and 81 percent feel strongly that companies have a role to play in improving the environment. https://www.retaildive.com/spons/consumers-demand-action-on-climate-change-and-its-time-for-retailers-to/572572/ In an opinion piece published in The Conversation on January 10, 2019, Morten Fibieger Byskov, Postdoctoral Researcher in International Politics, University of Warwick, stated, 'By changing consumption patterns on a large scale we might be able to influence companies to change their production patterns to more sustainable methods.'

https://theconversation.com/climate-change-focusing-on-how-individuals-can-help-is-very-convenient-for-corporations-108546
It has also been argued that citizens in democracies are in large part responsible for the policies of their governments. It is claimed that where voters demand governments act strongly to address climate change, governments are likely to respond. Demark is seen as an example of this. Denmark's parliament overwhelmingly passed an aggressive new climate law on December 6, 2018. The legislation aims to reduce the country's carbon emissions to 70 percent below its 1990 levels by 2030, with carbon neutrality targeted for 2050. The Danish people have been concerned about climate change for years, but the issue did not become a political priority until parliamentary elections in June 2018. Polls suggested that 46 percent of voters ranked climate change as their top concern, compared to 27 percent in 2017. https://www.usnews.com/news/best-countries/articles/2020-01-07/denmarks-aggressive-new-climate-law-blazes-path-for-developed-countries A pre-election Gallup poll showed that 57 percent of Danes considered their next government should respond to climate change. This powerful voter expectation affected the programs of virtually all political parties. https://www.irishtimes.com/news/world/europe/denmark-swings-left-to-reject-populists-and-embrace-climate-measures-1.3915988
In contrast, it has been argued that where there is no clear voter expectation that climate change will be addressed, then there is no imperative for governments to do so. Australia has been cited as an instance of a country where a lack of voter direction on the issue has resulted in confused and indecisive government action. In March 2021, Rebecca Colvin and Frank Jotzo of the Crawford School of Public Policy at the Australian National University released a study linking Australia's fractured attempts to deal with climate change with the lack of clear support from the electorate. They write, 'Australia remains a laggard on climate policy while being one of the largest per capita greenhouse gas emitters. Australia was the first country to repeal a price on emissions, in 2014, after implementation in a turbulent political context two years prior.' The writers connect this faltering policy history on climate change with a lack of clear voter support for a more focused approach. They write, 'Research from the mid-2010s positions Australia as second only to the United States in terms of how divided along left-right political lines are attitudes toward climate change.' https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0248268#sec014

3. Governments have a larger responsibility than to address a single issue
Those who argue against governments being legally compelled to set and reach emissions targets claim that this may be an unreasonable restriction to place on governments. They argue that governments have a wide range of sometimes conflicting responsibilities to meet. They also argue that sometimes a country's external circumstances change in ways that make it impossible for governments to meet prior commitments.
Australian Coalition governments have stressed the range of competing interests they need to address in addition to meeting the country's emission targets. The Abbott government elected in 2014, while adopting a 'direct action' approach to reducing greenhouse gas emissions, openly prioritised meeting the other obligations it had to its electorate. In 2017 Abbott looked back on his government's policy position, explaining it in these terms: 'The only rational choice is to put Australian jobs and Australia's standard of living first; to get emissions down but only as far as we can without putting prices up. After two decades' experience of the very modest reality of climate change but the increasingly dire consequences of the policy to deal with it, anything else would be a dereliction of duty as well as a political death wish.' https://www.theaustralian.com.au/commentary/opinion/amish-ways-good-for-some-the-rest-of-us-need-power/news-story/f247566009fb310c0111362d8e281e87 Subsequently governments have adopted policies claiming a less complete prioritization of economic

interests. Instead, they have promoted what they have termed a ‘balanced’ approach. Speaking at the Minerals Council dinner in June 2021, the prime minister, Scott Morrison, reassured the mining industry that its needs would not be overlooked despite the country’s emissions commitments. He stated, ‘The Australian way… says we can make these (carbon reduction) commitments and not forsake our heavy industries, not forsake our mining industries. And most importantly, not forsake the people of regional Australia, who others would seek to have us ignore for the sake of pursuing those commitments.’ https://www.theaustralian.com.au/inquirer/pms-progress-powered-by-climate-of-economic-reality/news-story/6756630636c2b883a1943d46c6cce96b In a radio interview given in February 2020, Scott Morrison gave an additional perspective on the range of interests that the government had to consider when shaping their emissions policy. He stressed the large number of voter concerns the government had to juggle, including employment, tax rates, and energy costs. He stated, ‘The government’s saying “we wanna get there with a balanced policy which doesn’t put people’s taxes up, doesn’t take away their jobs, and doesn’t put their electricity prices up.”’ https://www.triplem.com.au/story/prime-minister-scott-morrison-defends-his-government-s-record-on-climate-change-156556
Supporters of this ‘balanced policy’ approach also contend that it is sometimes necessary to take approaches that involve the release of emissions to combat unforeseen economic challenges such as COVID19. Increased use of gas-generated power (despite its adding to greenhouse gas emissions) is part of the Australian federal government’s plan to boost the economy following the damage inflicted by COVID in 2020. In September 2020, Prime Minister Morrison stated, ‘As we turn to our economic recovery from COVID-19, affordable gas will play a central role in re-establishing the strong economy we need for jobs growth, funding government services and opportunities for all.’ https://www.smh.com.au/politics/federal/morrison-to-back-construction-of-new-gas-fired-power-station-20200914-p55vks.html The government has presented gas as a transitional fuel to be used as part of a longer-term move toward renewables. In May 2020, Energy and Emissions Reduction Minister Angus, Taylor, stated. ‘More gas means more capacity to absorb renewables [into the grid] because gas is flexible, dispatchable generation.’ Though not an emission-free fuel. Gas has been defended as a less polluting fuel which would reduce global emissions by 10 percent. https://www.smh.com.au/politics/federal/morrison-government-climate-action-plan-hot-on-gas-cool-on-coal-20200520-p54uw9.html The government has stated it is focused on ensuring that electricity remains reliable and affordable as the market transitions from coal, and, for this reason, it is promoting gas as the key plank of its plan. Boosting Australia’s gas production is seen by the government as a way of keeping electricity costs lower and supporting economic growth. In 2019, chemical giant Dow announced the shutdown of its plant in Melbourne's west, citing rising gas prices as a major driver. Sydney-based RemaPak collapsed into administration the same year, saying its gas costs had rocketed from $4 to $16 a gigajoule. Increasing supply and competition by opening more sources of gas is intended to put downward pressure on prices and so promote industry and employment as the country struggles to move beyond the economic pressures created by COVID. https://www.smh.com.au/national/what-is-the-role-of-gas-in-a-green-economy-20210115-p56ud9.html The Australian’s editor-at-large Paul Kelly commented in September 2020 on the challenge faced by the Australian government in boosting the economy post-COVID19 while also striving to meet its commitments regarding greenhouse gas emissions. Kelly wrote, ‘With Australia in recession, the Prime Minister seeks a new fusion between climate policy and economic recovery.’ https://www.theaustralian.com.au/inquirer/coalition-steps-on-the-gas-ahead-of-a-covidrecovery-budget/news-story/155f35d69d636a3af19f66dfc1f00be8

Three months later in January 2021, the prime minister announced that the government had struck a two-year deal with large east-coast liquid natural gas (LNG) exporters to offer uncontracted gas first to Australian companies, in a bid to keep prices down and lower costs for manufacturers as part of the government's COVID-19 recovery plan. Scott Morrison stated, 'Gas is critical to our economic recovery and this agreement ensures Australian businesses and families have the gas supply they need at the cheapest possible price. This is about making Australia's gas work for all Australians, while also supporting economic growth and backing important -regional jobs in our expanding LNG sector.' https://www.theaustralian.com.au/business/mining-energy/pms-gasfired-covid-recovery/news-story/ad0b2cbd7e31400c7422de541b636b46

4. Climate change is a global issue; no single government or company can act against it independently

Those who oppose individual governments or corporations being held legally accountable for their efforts to combat climate change argue that this is a pointless measure because worldwide action is required to address climate change. According to this argument, until we reach a point where all countries and corporations can be compelled to carry a proportionate responsibility for greenhouse gas emissions it is unjust to hold any one nation or company legally accountable.

This position was explained in an analysis by Kemal Derviş and Sebastian Strauss published by the Brookings Institute on April 20, 2019. The authors state, 'because there is only one atmosphere and the emissions of any one country add to global greenhouse-gas concentrations as much as those of any other country… Europe may well reduce its emissions in line with (or even beyond) the aims of the 2015 Paris climate agreement, but if India and China's emissions keep increasing—or if Brazil allows the Amazon to collapse—those efforts will have been futile… without a binding international agreement or a supranational authority that can impose global green policies, few countries have an incentive to engage in sufficient mitigation efforts…' https://www.brookings.edu/opinions/the-real-obstacle-to-climate-action/ In an overview of the progress being made by the world's top ten emitters between 2005 and 2018, Forbes noted that China, which at that time contributed 27.8 percent to the world's greenhouse gas emissions had had its emissions rate grow by 54 percent in those 13 years. Similarly, India, which causes 7.3 percent of the world's emissions, had seen its emissions rate grow by 105.8 percent in the same period. https://www.forbes.com/sites/rrapier/2019/12/04/the-worlds-top-10-carbon-dioxide-emitters/?sh=7929daec2d04 Such growth rates among major emitters are claimed by some to demonstrate the futility and inequity of imposing legally binding limitations on other nations which contribute far less annually to the world's greenhouse gas load. It has been argued that where there are no binding international agreements with real consequences for failure to meet targets its is not reasonable to expect low emitters to accept legal penalties within their own countries. In an address given to the Australian Institute of International Affairs on February 25, 2020, author and journalist Paul Kelly noted, ''It is the big emitters who will determine the fate of Paris [Agreement], and the current trajectory is dismal.' Kelly argued that the reason for this failure to adequately restrain the large emitters. He points to the 'the non-binding structure of the agreement: states were asked to nominate their own targets for emissions reductions, and there are no consequences for failing to meet those targets.' https://www.internationalaffairs.org.au/news-item/the-coming-global-upheaval-over-the-policy-and-politics-of-climate-change/

The complaint that all nations need to be taking climate action, particularly all large emitters, has been regularly made in Australia. Several Australian governments have argued that Australia contributes relatively little to the world's greenhouse gas emissions and so should

not face compulsions when many larger emitters are continuing to contribute to global warming. This point was stated in a 2009 background paper written for the Australian federal parliament. The paper stated, 'Despite being amongst the highest emitters of greenhouse gases (GHG) per head, Australia was responsible for only about 1.5 percent of the world's total annual emissions of such gases in 2005. Though welcome, any reduction in Australia's GHG emissions, of itself, will not have a significant impact on the overall level of GHG in the atmosphere.'
https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/0809/ClimateChange In May 2019, Sky News commentator Alan Jones used a single grain of rice taken from a bowl to demonstrate to his television audience how small a contribution Australia made to global greenhouse gas emissions relative to those of other larger emitters. https://www.facebook.com/PaulineHansonAu/videos/exposed-climate-change-hoax-dismantled-by-alan-jones/353616185294271/ Former Australian prime minister Tony Abbott has similarly stressed that restricting Australia's greenhouse gas emissions would harm the country without advancing the cause of reducing climate change. He argues that while 'the really big emitters' continue to release greenhouse gases there is no value in Australia limiting its economic development to reduce emissions. In 2017, referring to other major developed and developing nations, Abbott stated, 'Between them, they're building or planning more than 800 new coal-fired power stations — often using Australian coal. Should Australia close down its steel industry; watch passively while its aluminium industry moves offshore; export coal but not use it? Of course not…'
https://www.news.com.au/national/politics/tony-abbott-tells-climate-sceptics-forum-global-warming-may-be-good-and-climate-science-is-crap/news-story/dc42c5598f4c63e0e9689d6eacaf3b07

5. Short political terms encourage democratic governments to focus on the present
It has also been argued that imposing legal penalties on governments for not meeting emission reduction targets is not reasonable given the short-term focus of democracies.
It has been claimed that the nature of democracies' electoral cycles restricts governments' capacity to make long-term commitments. According to this line of argument, democracies plan around their electoral terms. Plans are normally operative for the period during which a particular government has been elected. In an article published in Politico on June 18, 2020, Dale Jamieson, professor of environmental studies and philosophy at New York University, stated, 'Tackling climate change requires long-term commitments, yet the time horizon of democratic leaders is keyed to the electoral cycle.' https://www.politico.eu/article/can-democracies-beat-climate-change/
Further, if a particular policy proves unpopular over a government's term, the consequence will be either that the government is removed from office or, if re-elected, that it changes its policy. In either case, long-term adherence to a policy that does not have electoral support will not occur. Commentators note that this has major implications for climate change policies which need to be preserved with, monitored, and, if necessary, adjusted over the long term. This can be seen in the fluctuations in climate change policy in Australia. In a background paper produced for the federal parliament in August 2016, it is stated, 'Climate policy has been a polarising and highly political issue in Australia. Several proposals to establish an emissions trading scheme have come unstuck, with the former ALP Government finally establishing a carbon pricing mechanism in 2012. However, the "carbon tax" was repealed by the Abbott Government in 2014 [to be replaced by] the Emissions Reduction Fund (ERF)…'
https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook45p/EmissionsReduction In another parliamentary background paper

updated in May 2016, it was stated, 'Climate change is a long-term, global problem. Long-term problems generally require stable but flexible policy implementation over time. However, Australia's commitment to climate action over the past three decades could be seen as inconsistent and lacking in direction. At times Australia has been an early adopter, establishing the world's first government agency dedicated to reducing greenhouse gas emissions; signing on to global climate treaties the same day they are created; establishing the world's first emissions trading scheme (ETS) (albeit at a state level), and pioneering an innovative land-based carbon offset scheme. But at other times, and for many reasons, Australia has erratically altered course: disbanding the climate change government agency, creating a new one then disbanding that; refusing to ratify global treaties until the dying minute; and being the first nation in the world to undo legislated action on climate change, with the repeal of the Carbon Price Mechanism.'
https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22library/prspub/4590624%22 The same background paper has noted that these policy fluctuations have occurred around elections and appear influenced by the electoral cycle. It states, 'Since 2007 Australia's response to climate change has featured prominently in federal elections with close scrutiny given to party policies. It has been suggested that two federal political leaders have lost their position in part because of their policies on climate change (Malcolm Turnbull as Leader of the Opposition in 2009 and Prime Minister Kevin Rudd in 2010).
https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22library/prspub/4590624%22
It has been claimed that the need for democratic governments to retain electoral support for whatever their climate change policy is a fundamental obstacle to the meeting of long-term emission-reduction goals. In this context, some have claimed, there is little point in imposing legal obligations on governments to attain these goals. Professor Dale Jamieson has stated, 'No government can deliver solutions when its people are unable to recognise them or unwilling to accept them.' https://www.politico.eu/article/can-democracies-beat-climate-change/

Further implications

The following article outlines how Denmark is using the law to hold its government accountable for tackling climate change.
It is an abbreviated version of a report written by Jocelyn Timperley and published in the BBC's Future Planet on July 8, 2020.
The full text can be accessed at https://www.bbc.com/future/article/20200706-the-law-that-could-make-climate-change-illegal

'Imagine this: it's 2030 and a country has just missed its target for cutting carbon emissions, which was set back in 2020. People are frustrated, but several governments have come and gone since the goal was set. "Don't blame us," the current government says. "We didn't take the decisions that led us here."
The short-term cycles of government can be a real problem for climate change. Even if climate goals are laid down in law, there can often be few concrete measures to stop a succession of governments from taking decisions that collectively end up with them being missed.
But a new and ambitious climate law recently passed in Denmark tries to find a way around this problem, and some of the other common pitfalls of climate laws. It makes Denmark one of a small number of countries beginning to provide new blueprints of how government can genuinely tackle climate change. Its law could turn out to be one of the closest things yet to a

law that would make climate change – or at least the lack of effort to stop it – genuinely illegal.
In January 2019, a petition was launched for a climate law that would bring Denmark in line with the Paris Agreement. After one week, it had been signed by more than 50,000 people – around 1 percent of Denmark's population.
Once in office, Denmark's new government, a coalition of left-wing parties led by the Social Democrats, began work on an ambitious climate law, which came into force in June 2020. It is one of the strongest laws of its kind in the world because it avoids five big pitfalls of climate laws elsewhere.

1. An enduring solution
How can a climate law avoid the scenario of a country setting a goal 10 or 20 years into the future but failing to meet it?
Policies to cut emissions are needed years ahead of time to meet climate goals. "It's about more than just setting a target," says Tessa Khan, a climate lawyer with Dutch environmental law charity Urgenda. "It's also about making sure that governments are taking the measures in the interim that are necessary to reach that target, and to make that a legally binding process."
The UK government, for example, has for years neglected the strong policies needed to set it on course to meet its climate targets in the next 12 years. "What we have [in the UK] is a case where the government can set a budget, come up with a plan which isn't good enough, and then ignore that plan and not need to update it," says Jonathan Church, a lawyer with the activist legal charity ClientEarth. "Actually, you need the legal weight of whatever law it is to be focused on when those actions are taken."
The Danish law has several safeguards to this end. Every year, the government will need to find a majority parliamentary approval of its global and national climate strategies. "The government will be held to account every year by the parliament," says Dan Jørgensen, Denmark's climate and energy minister. "If you're not on track, the parliament can say, 'Well, sorry, you're not on track so you don't get a majority.' In theory, that will lead to a government having to step down."
Of course, if there were a drastic change to the parliamentary makeup, this cross-party consensus system could fail. "Technically it's a risk, but in reality [for Denmark], no," says Qvist-Sørensen, noting that there are so many parties in the parliament that even a big change to one would leave a majority in favour of action.
But what happens when a new government comes in – will it be held to the same standard? As governments come and go, laws often can too. Climate ambitions by one government can be at risk if a future government does not support them – as seen in the US when President Donald Trump entered the White House and reversed many of his predecessor's environmental initiatives.
Denmark has tried to minimise this risk by negotiating cross-party support of its climate law. Eight of the 10 parties in the Danish parliament – who together make up around 95% of seats – ultimately voted for the law (members from two small parties voted against it)…

2. Fair share
Another key difference in Denmark's new law is its evidence-based approach to what share of the global emissions cuts it is responsible for.
Global emissions will need to halve in the next 10 years to keep the world on track to limit temperature rise to 1.5C – a key aspirational goal of the Paris Agreement, which nearly all countries have signed up to. The goals behind climate laws claiming to be in line with the

Paris Agreement must therefore be based on the science of what needs to be done, not what is deemed "possible" to do given current technologies.
Calculating the "fair share" of emissions reductions needed from each country is complex and varies depending on the method used for divvying out responsibility. Countries have acknowledged, though, that rich nations with more historic emissions should be required to cut their emissions faster than poorer countries who have emitted less. (Read more about who is really to blame for climate change.)

Countries with credible climate plans, therefore, need to make a genuine attempt to calculate their fair share. This is what Denmark has done, finding that it should reduce emissions by 70 percent by 2030, based on 1990 levels. This legally binding science-based target is the backbone of its new law.
So far Denmark has reached just a 35% drop in emissions, so it has its work cut out over the next 10 years, including immediate action to reduce emissions now and support to develop the tools needed to achieve deeper emissions reductions towards the end of the 2020s.
This means the new law is different in committing Denmark to stretch beyond its current capabilities. "With all the knowledge and technology we have today, no matter what we do, we cannot reduce [emissions by] 70% in 10 years," says Qvist-Sørensen. "Here they've set a target that means that we don't have all the answers yet."…

3. Net zero
Global emissions will need to reach "net zero" around mid-century to stay on track for 1.5C, according to the International Panel on Climate Change (IPCC). Any greenhouse gas emissions still occurring in 2050 will need to be balanced out with the same amount of emissions removed from the atmosphere.
This concept of net-zero emissions may have its challenges, but a vision for long-term emissions cuts will always be an essential part of any credible climate target. A flood of new "net-zero" climate goals have been set in recent years, including by the UK, France, Sweden, New Zealand, the EU at large and states within the US including California and New York. Suriname and Bhutan have already achieved net-zero emissions.
Other countries have even earlier targets than Denmark's goal for net-zero by 2050. Norway, for instance, plans to become "climate neutral" by 2030. The catch? This target is not enshrined in law, and Norway plans to meet it by buying emissions "offsets" from other countries. Norway's domestic emissions are actually higher today than they were 30 years ago.
This is an important caveat to any "net zero" climate target. Those who support using offsets say they allow emissions to be cut in the cheapest possible way, but others argue they unfairly allow rich countries to buy their way out of the climate problem, and that it is hard to guarantee offsets are permanent – newly grown trees can be cut down again at some point, after all – or would not have happened anyway.
So, while the date of Denmark's net-zero target isn't as ambitious as it could be, its promise to achieve all emissions cuts within its borders helps to give it credibility. "We say that if all countries just bought credits, then we wouldn't have the development that we need," says Jørgensen. "We need technological advances. We need a system where rich countries can't just buy their way out."

4. In it together
Climate change is a global problem – if it is not tackled everywhere, it will affect everyone. The modern world is also incredibly intertwined: products – and resultant emissions – made

in one place are consumed in another while sharing green technologies across borders can also help other countries reduce their emissions.
Many argue governments need to do more than cutting emissions strictly within their borders. "It's of course quite arbitrary to only hold states and governments accountable for the emissions that their territory produces," says Khan. "I think it's really important to make sure that those aspects of greenhouse gas emissions aren't omitted from any climate change law, and that countries are politically honest about their full responsibility for the problem." Many countries skirt around this issue in their climate laws, but Denmark's new law has a commitment to support other countries in cutting their emissions. It requires climate change to be integrated into foreign development aid and trade policy, and for the climate impacts of Danish imports and consumption to be considered…

5. Green lens
Denmark's law also has a safeguard to make sure positive climate efforts in one part of its government aren't undermined by those in another.
Governments are notoriously bad at "green-checking" their decisions. Often some departments support investment in fossil fuels or road building even while others are pushing clean energy and transport. The UK government, for example, has had a climate change law in place since 2008 but has been criticised for not considering the environmental impacts of its spending decisions and for funding fossil fuels abroad.
As climate change moves up the political agenda, an all-hands-on-deck approach is increasingly being prioritised. New Zealand's government, for instance, said last year that all its major decisions will now be made through a climate change lens.
Denmark's law likewise aims to ensure all policies support green sustainable development. It establishes a standing committee on "green transformation" to screen the sustainability of all policies, says Jørgensen. "We see this as a transformation of the Danish society that's so big that it's not just my ministry, it's all ministries, including the foreign affairs ministry," he adds. "They are also responsible for the global strategy that needs to be put forward every year."
Denmark is also making efforts to include businesses and the public in its plans. A "public climate council" of 99 people will be invited to discuss potential climate plans. Thirteen "climate partnerships", each led by a different sector, were tasked with coming up with solutions to reduce emissions in their industry. "So actually, [the government] have put the private sector to the test but are also saying on the other hand that the private sector really wants to be put to the test," says Qvist-Sørensen.

When laws fall short
Climate laws are becoming an increasingly common tool for countries to tackle climate change. But what if governments fail to create them in the first place? In this case, courts are proving to be a powerful mechanism to force governments to take action.
In one especially noteworthy ruling in 2015, a court in the Hague ordered the Dutch government to cut its emissions by at least 25% within five years. The case, brought by Urgenda, was based on the legal obligations of the government to exercise a duty of care to Dutch citizens.'