



Whaling in the Antarctic (Australia v. Japan)

ARGUED: 20 November 2022

DECIDED: 20 November 2022

1 This Dissenting Opinion was signed by and agreed by Justice Fetter of Ecuador.

2 The opinion and explanation of this Justice is as follows:

3 This Dissent agrees with the Majority Opinion's pronouncement that the International Court of Justice has
4 jurisdiction over this dispute under Article 36 of the Statute of the International Court of Justice, under Article 31
5 Section 1 of the Vienna Convention on the Law of Treaties.

6 It is of my sincerest regret that I cannot associate myself with the current Judgment presented by the
7 International Court of Justice in its opinion Japan has grossly violated its international obligation. My fundamental
8 disagreement lies within the Court's interpretation and application of the International Convention for the Regulation
9 on Whaling (further referred to as 'ICRW') and the subsequent Judgment.

10 The preamble of the ICRW clearly states the purpose of the Convention as establishing a system of interna-
11 tional regulation for the monitoring of whale populations' conservation and development. However, the ICRW lacks
12 strong regulation throughout the Convention and is based on only the monitoring of whale catching. The objective of
13 the ICRW is to develop a conservation program which restores and maintains the ocean's whale fisheries. The ICRW
14 establishes that State governments can grant special permits for whaling, and Japan has adhered to the parameters
15 established within.

16 The Court has failed to take part in considering the essential characteristics of the Convention. The basic
17 objective of this Convention was to develop a sound conservation program which restores and maintains adequate and
18 healthy breeding. The International Whale Commission (IWC) has the power to amend and modify this Convention.
19 An ideal resolution would be a Judgement requiring bilateral negotiations between the two parties in place of a rigid
20 list of ultimatums.

21 Australia has failed to prove that Japan is in violation of the ICRW.

Signed By

A handwritten signature in black ink, appearing to read 'Abby Fetter', written in a cursive style.

Justice Abby Fetter