AMERICAN JOURNAL OF INTERNATIONAL LAW

Vol. 115 **July 2021** **No. 3**

CONTENTS **PAGE**

Lead Articles

Advisory jurisdiction is a ubiquitous feature of international human rights adjudication. Yet the attention of legal scholars is almost entirely devoted to contentious jurisdiction. This Article aims to fill that gap in the literature. By introducing two models of advisory jurisdiction, and analyzing the example of the Inter-American Court of Human Rights—the world's most active international advice-giver—the Article shows how international human rights courts may utilize advisory proceedings to influence state conduct, in a mechanism the Article calls "ruling through advice." The Article also shows how human rights courts may attempt to guide states and national courts by means of an "anticipatory adjudication" mechanism. Using the Inter-American Court's groundbreaking advisory opinion on same-sex marriage as a case study, the Article argues that, despite the domestic implementation of its opinion, the Court misused its advisory powers, putting the regional human rights system at risk. The insights that both the conceptual model and the case study offer contribute to a broader conversation about international courts' advisory role.

Judges and scholars have interpreted human rights treaties as obligating states to mitigate climate change by limiting their greenhouse gas emissions, an argument instrumental to the development of climate litigation. This Article questions the validity of this interpretation. A state's treaty obligation to protect human rights implies an obligation to cooperate on the mitigation of climate change, the Article argues, only if and inasmuch as climate change mitigation effectively protects the enjoyment of treaty rights by individuals within the state's territory or under its jurisdiction. As such, human rights treaties open only a narrow window on the applicability of general mitigation obligations arising under climate treaties and customary international law.