


SYMPOSIUM ARTICLE

# Echoes Through Time: Transforming Climate Litigation Narratives on Future Generations<sup>Ψ</sup>

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## Abstract

Storytelling is essential in climate litigation. The narratives that are told in and around legal cases shape public discourse and our collective imagination regarding the climate crisis. The stories that plaintiffs and their lawyers choose to highlight hold immense power to either reinforce or challenge dominant assumptions and worldviews. This article analyzes how storytelling has been utilized in climate lawsuits, with a particular focus on those that involve future generations. It highlights the need to craft narratives that foreground entanglement and relationality rather than notions of competing interests. We offer recommendations for strategically using storytelling and framing techniques to build public engagement, spur equitable climate action and transform legal systems.

**Keywords:** Narratives; Storytelling; Future generations; Climate litigation

This struggle has reawakened our imagination.  
... We are not fighting to tinker with reforming  
a system that needs to be replaced.<sup>1</sup>

## 1. Introduction

Climate change poses grave intergenerational justice concerns, as its consequences will be disproportionately borne by future generations.<sup>2</sup> Since such a group cannot participate directly in climate policymaking, litigation has become a key strategy to represent their interests.<sup>3</sup> Storytelling plays a vital role in such litigation and can even

<sup>Ψ</sup> This contribution is part of a collection of articles growing out of the ELTE-Aarhus Joint Workshop on 'Future Generations Litigation', held at the ELTE University in Budapest (Hungary) on 8–9 June 2023.

<sup>1</sup> A. Roy, *Capitalism: A Ghost Story* (Haymarket Books, 2014), p. 96.

<sup>2</sup> We follow the Maastricht Principles on the Human Rights of Future Generations in defining 'future generations' as 'persons, groups and peoples who do not exist, but will exist and inherit the Earth': Maastricht Principles on the Human Rights of Future Generations, 3 Feb. 2023, available at: <https://www.rightsoffuturegenerations.org/the-principles>.

<sup>3</sup> See generally C. Bustos & G. Eslava-Bejarano, 'Protecting the Rights of Future Generations through Climate Litigation: Lessons from the Struggle against Deforestation in the Colombian Amazon',

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be transformative.<sup>4</sup> Stories resonate emotionally, moving beyond the stale language of technicalities to convey urgent stakes. They can make the impacts of climate change more tangible and meaningful by bridging the gap between complex scientific concepts and personal relatability.<sup>5</sup> In these ways, storytelling can help to ensure that legal norms, such as specific provisions of human rights law, better accommodate intergenerational justice concerns. Beyond the law, storytelling can shape public discourse and collective imagination regarding the climate crisis.<sup>6</sup> Impactful storytelling can thus sway proceedings as well as trigger broader jurisprudential and societal changes.

Not all storytelling is helpful, however, and future generations litigation presents inherent storytelling challenges. As they do not yet physically exist, future generations cannot directly convey experiences or participate in the litigation process.<sup>7</sup> Yet, their interests are profoundly affected by today's environmental policies. Abstract and impersonal portrayals risk minimizing this complex intergenerational ethical relationship, while the representation of future generations poses its own distinct challenges.<sup>8</sup> In fact, the core challenge is not just that future generations cannot participate directly in proceedings, but also that they do not yet have stories of their own. As this article explores, impactful climate litigation often relies on personal narratives and individual experiences to persuade judges and juries. Yet, future generations cannot provide such intimately human stories, as they remain hypothetical rather than established collective identities. This reflects a deeper tension between the 'planetary' framing of future generations in the abstract versus 'global' litigation processes that distribute power and wealth among actual political actors. In Chakrabarty's terminology, future generations are quintessentially planetary beings, defined in biological rather than political terms.<sup>9</sup>

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in C. Henry, J. Rockström & N. Stern (eds), *Standing up for a Sustainable World* (Edward Elgar, 2020), pp. 163–70; I. Gonzalez-Ricoy & F. Rey, 'Enfranchising the Future: Climate Justice and the Representation of Future Generations' (2019) 10(5) *WIREs Climate Change*, article e598, p. 1; L. Davies & L. Henderson, *Judging Without Railings: An Ethic of Responsible Judicial Decision-Making for Future Generations* (Utrecht University Centre for Global Challenges, 2022); L. Parker et al., 'When the Kids Put Climate Change on Trial: Youth-Focused Rights-Based Climate Litigation around the World' (2022) 13(1) *Journal of Human Rights and the Environment*, pp. 64–89, at 64.

<sup>4</sup> L. Behrendt, 'Indigenous Storytelling: Decolonizing Institutions and Assertive Self-Determination: Implications for Legal Practice', in J.-A. Archibald, J. Lee-Morgan & J. De Santolo (eds), *Decolonizing Research: Indigenous Storywork as Methodology* (Zed Books, 2019), pp. 177–88, at 177.

<sup>5</sup> K. Abrams & H. Keren, 'Who's Afraid of Law and the Emotions?' (2010) 94(6) *Minnesota Law Review*, pp. 1997–2074; S. Bogojević, 'EU Climate Change Litigation, The Role of the European Courts, and the Importance of Legal Culture' (2013) 35(3) *Law & Policy*, pp. 184–207; J. Setzer & L. Vanhala, 'Climate Change Litigation: A Review of Research on Courts and Litigants in Climate Governance' (2019) 10(3) *WIREs Climate Change*, article e580.

<sup>6</sup> L. Gyte, V. Barrera & L. Singer, 'The Story of Our Lives: Narrative Change Strategies in Climate Litigation', in C. Rodríguez-Garavito (ed.), *Litigating the Climate Emergency: How Human Rights, Courts, and Legal Mobilization Can Bolster Climate* (Cambridge University Press, 2022), pp. 289–304; C. Hilson, 'The Role of Narrative in Environmental Law: The Nature of Tales and Tales of Nature' (2022) 34(1) *Journal of Environmental Law*, pp. 1–24, at 1.

<sup>7</sup> This absence has been cited by philosophers, most notably Parfit, to argue that present generations cannot have a responsibility towards future generations; see D. Parfit, *Reasons and Persons* (Oxford University Press, 1984). Compare also E.B. Weiss, 'In Fairness to Future Generations and Sustainable Development' (1992) 8(1) *American University International Law Review*, pp. 19–26.

<sup>8</sup> See, e.g., Gonzalez-Ricoy & Rey, n. 3 above, p. 1.

<sup>9</sup> D. Chakrabarty, *The Climate of History in a Planetary Age* (University of Chicago Press, 2021).

The fundamental obstacle is thus translating their planetary stakes into the global sphere of litigation, where stories derive persuasive power from lived realities. This article grapples with how to compellingly represent future generations, given this disjuncture.

It should also be acknowledged that litigation premised on intergenerational rights remains a contested strategy, including among climate justice scholars.<sup>10</sup> While we proceed from the premise that creatively framing such cases carries potential, the risks and critiques associated with this type of litigation must also be recognized. For example, intergenerational rights-based climate litigation has been accused of depoliticizing root causes through a homogenization of responsibilities and impacts.<sup>11</sup> Relatedly, a future generations framing risks reinforcing entrenched normative assumptions tied to the racialized capitalist drivers of the climate crisis.<sup>12</sup> These risks are closely related to the use of litigation as a strategy for social change: as Krystal Two Bulls reminds us, litigation tends to involve the use of legal systems that were, in many parts of the world, forcibly imposed on colonized peoples and used to facilitate extraction, exploitation, and even genocide.<sup>13</sup> The dominance of Western legal systems in adjudicating universal human rights claims therefore creates a risk of obscuring colonial injustices.<sup>14</sup> Using litigation to tell stories not only risks reinforcing problematic cultural assumptions but can also reproduce and further entrench normative flaws embedded in our legal systems.<sup>15</sup>

We do not propose litigation as a panacea. Rather, we suggest that strategic narrative crafting in case design and advocacy may help to mitigate risks and lend momentum to broader mobilization. Our aim is, thus, to explore productive possibilities while remaining cognizant of inherent limitations. We argue that relational approaches to storytelling, influenced by Indigenous traditions, show promise in grappling with the risks outlined above, while compellingly linking struggles across time. Relational stories and narratives recognize complex entanglements between humans and nature, and challenge disjunctive temporality.<sup>16</sup> They foster an expansive understanding of self as interconnected with the living world across time and space, emphasizing continuity and reciprocity between ancestors, current generations, and descendants. While scholars have identified relational storytelling as a potent strategy to ‘humanize’

<sup>10</sup> See, e.g., S. Humphreys, ‘Against Future Generations’ (2022) 33(4) *European Journal of International Law*, pp. 1061–92.

<sup>11</sup> *Ibid.*

<sup>12</sup> For the purposes of this article, we adopt Tzouvala’s understanding of ‘race’ as ‘a political and economic category that – whatever its origins – has come to be intrinsically linked to the reproduction of capitalism on a global level’: N. Tzouvala, ‘Full Protection and Security (for Racial Capitalism)’ (2022) 25(2) *Journal of International Economic Law*, pp. 224–41, at 236.

<sup>13</sup> K. Two Bulls in conversation with M. Gevisser & K. Redford, ‘Standing Up at Standing Rock: An Indigenous Warrior’s Experience’, in M. Gevisser & K. Redford (eds), *The Revolution Will Not Be Litigated: People Power and Legal Power in the 21st Century* (OR Books, 2023), pp. 271–6, at 276.

<sup>14</sup> *Ibid.*

<sup>15</sup> See generally H. Duffy, *Strategic Human Rights Litigation: Understanding and Maximizing Impact* (Hart, 2018); B. Batros & T. Khan, ‘Thinking Strategically about Climate Litigation’, in Rodríguez-Garavito, n. 6 above, pp. 97–116.

<sup>16</sup> See, e.g., R.S. Abate & E.A. Kronk, ‘Commonality among Unique Indigenous Communities’ (2013) 26(2) *Tulane Environmental Law Journal*, pp. 179–95.

the law and contribute to more inclusive legal systems,<sup>17</sup> legal scholarship lacks in-depth analysis of its use in climate litigation and its potential to inform approaches to the representation of future generations and their interests.

Against this backdrop, the article evaluates the potential of storytelling around future generations in climate litigation based on an original conceptual framework. The first part of this framework is set out in Section 2, with examples illustrating the role of storytelling, narratives, and framing in shaping legal norms and fostering societal change. Section 3 completes this framework, detailing specifically how relational stories and narratives can grapple with some of the challenges arising in litigation involving future generations. In Section 4, the article examines tensions that have arisen in conveying intergenerational climate obligations through cases like *Urgenda*<sup>18</sup> and *Neubauer*.<sup>19</sup> Other lawsuits – such as the *Carbon Majors Inquiry*,<sup>20</sup> *Juliana*,<sup>21</sup> and *Youth Verdict*<sup>22</sup> – have more compellingly linked struggles across time. In Section 5, we zoom in on cases showcasing Indigenous storytelling as a source of inspiration for climate litigation storytelling on future generations. Here, the emphasis lies on the vital role of Indigenous communities themselves bringing forth cases grounded in relational worldviews. While valuable lessons may be drawn from these cases, the aim is not to appropriate strategies but rather to highlight Indigenous leadership and agency in shaping litigation outcomes. The article concludes (Section 6) by reflecting on the immense yet underexplored power of storytelling to reimagine legal systems and discourse for an equitable, collective climate future across time. It emphasizes litigation's role in catalyzing public engagement as part of this transformative project.

## 2. The Role of Storytelling in Litigation

Storytelling plays an important role in litigation by bringing legal arguments to life.<sup>23</sup> As a process, it entails strategic arrangement of characters, settings, plots, and morals into resonant tales.<sup>24</sup> Stories generally assign meaning, provoke emotions, and humanize abstract issues, which can persuade judges and juries.<sup>25</sup> Narratives are the overarching frameworks constructed from the aggregation of stories.<sup>26</sup> They shape notions of identity, community, and belonging by guiding emotions and interpretations

<sup>17</sup> N. Bedford, 'Storytelling in Our Legal System: Healing for the Stolen Generations' (2019) 45(2) *Australian Feminist Law Journal*, pp. 321–31, at 321.

<sup>18</sup> N. 90 below.

<sup>19</sup> N. 96 below.

<sup>20</sup> N. 103 below.

<sup>21</sup> N. 109 below.

<sup>22</sup> N. 119 below.

<sup>23</sup> Abrams & Keren, n. 5 above.

<sup>24</sup> E.A. Shanahan, M.D. Jones & M.K. McBeth, 'How to Conduct a Narrative Policy Framework Study' (2018) 55(3) *The Social Science Journal*, pp. 332–45; Gyte, Barrera & Singer, n. 6 above, p. 291.

<sup>25</sup> J.A. Cohen, 'The Place of the Literary Imagination in Legal Theory' (1998) 22(3) *Legal Studies Forum*, pp. 307–24.

<sup>26</sup> G. Böhm et al., 'Remembering and Communicating Climate Change Narratives: The Influence of World Views on Selective Recollection' (2019) 10 *Frontiers in Psychology*, article 1026, p. 2.

of facts and normative frameworks.<sup>27</sup> Framing, as explored by socio-legal scholars, creates a lens through which narratives and stories are viewed and understood.<sup>28</sup> As Hänggli and Kriesi note, a frame ‘highlights some aspects of a perceived reality and enhances a certain interpretation or evaluation or reality’,<sup>29</sup> thereby influencing the larger discourse about the issues in question. The interrelationship between the concepts of storytelling, narrative, framing, and discourse in litigation can thus be seen as a hierarchy or ripple effect where storytelling forms the base, aiding the formation of narratives.<sup>30</sup> These narratives, when framed aptly, shape the broader legal and societal discourse in line with strategic objectives.

Socio-legal scholarship on the craft of storytelling through litigation has revealed how lawyers carefully construct stories to define problems in certain ways, assign blame, and elicit moral outrage from the audience.<sup>31</sup> Rhetorical techniques like vivid imagery, selective emphasis of facts, and evocative language are used for maximum persuasive advantage.<sup>32</sup> This scholarship has also shown how effective legal stories often rely on ‘stock scripts’ – familiar narrative patterns and character archetypes that resonate with audiences.<sup>33</sup> For instance, depictions of plaintiffs as innocent victims and defendants as malicious villains cue instinctive reactions. Such narrative framing of characters disposes audiences to judge their claims accordingly.<sup>34</sup> These stock scripts already evidence the normative character of storytelling in law. In his seminal article ‘*Nomos and Narrative*’, Cover argues that law and narrative are inseparably related to the normative world. ‘Once understood’, Cover points out, ‘in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live’.<sup>35</sup>

Indeed, scholarship suggests that aligning litigation narratives with the audiences’ cultural assumptions positively influences case perception. For example, Ewick and Silbey have demonstrated how narrative fidelity with embedded cultural schemas

<sup>27</sup> Gyte, Barrera & Singer, n. 6 above, p. 291.

<sup>28</sup> A. Marshall, ‘Injustice Frames, Legality, and the Everyday Construction of Sexual Harassment’ (2003) 28(3) *Law & Social Inquiry*, pp. 659–89; N. Pedriana, ‘From Protective to Equal Treatment: Legal Framing Processes and Transformation of the Women’s Movement in the 1960s’ (2006) 111(6) *American Journal of Sociology*, pp. 1718–61; L. Vanhala, *Making Rights a Reality? Disability Rights Activists and Legal Mobilization* (Cambridge University Press, 2011); L. Vanhala & C. Hestbaek, ‘Framing Climate Change Loss and Damage in UNFCCC Negotiations’ (2016) 16(4) *Global Environmental Politics*, pp. 111–29; C. Hilson, ‘Framing Fracking: Which Frames Are Heard in English Planning and Environmental Policy and Practice?’ (2015) 27(2) *Journal of Environmental Law*, pp. 177–202.

<sup>29</sup> R. Hänggli & H. Kriesi, ‘Frame Construction and Frame Promotion (Strategic Framing Choices)’ (2012) 56(3) *American Behavioral Scientist*, pp. 260–78.

<sup>30</sup> Cf. Hilson, n. 6 above, pp. 3–4 (considering narrative and story as interchangeable, with ‘public discourse’ capturing ‘that broader category’).

<sup>31</sup> R. Delgado, ‘Storytelling for Oppositionists and Others: A Plea for Narrative’ (1989) 87(8) *Michigan Law Review*, pp. 2411–41.

<sup>32</sup> R.K. Sherwin, ‘The Narrative Construction of Legal Reality’ (2000) 18(3) *Vermont Law Review*, pp. 681–720.

<sup>33</sup> A.D. Sarat, ‘Narrative Strategy and Death Penalty Advocacy’ (1996) 31(2) *Harvard Civil Rights – Civil Liberties Law Review*, pp. 353–82.

<sup>34</sup> *Ibid.*, p. 357.

<sup>35</sup> R.M. Cover, ‘*Nomos and Narrative*’ (1983) 97(4) *Harvard Law Review*, pp. 4–68, at 4–5.

provides inherent persuasive power.<sup>36</sup> Stories upholding dominant worldviews often prevail in litigation, while counter-narratives face much greater scrutiny.<sup>37</sup> For climate litigation invoking future generations narratives, it is therefore instructive to consider how these narratives may be framed in a way that makes them appealing to judges and juries. This strategic rationale, however, needs to be balanced with the need to challenge dominant cultural assumptions intertwined with the structural issues that the litigation seeks to confront.

Various examples illustrate how storytelling can contribute to desired legal outcomes by making systemic issues personally compelling, with positive ripple effects on public discourse. For example, key tobacco lawsuits in the United States (US) are likely to have succeeded in part through gripping stories of individuals suffering from cancer.<sup>38</sup> These vivid accounts humanized statistical data about risks, while effectively countering influential industry propaganda that had normalized tobacco use and downplayed the health risks of smoking.<sup>39</sup> Similarly, environmental lawsuits spotlighting the visible impacts of pollution employ narrative techniques that render abstract or invisible harms more concrete and tangible. As Gerrard has noted, presenting environmental degradation as a personal injustice broadens engagement.<sup>40</sup>

Legal doctrines that focus on personal or collective grievances, such as civil or human rights, make for good storytelling. In anti-discrimination suits, for instance, plaintiffs' first-hand accounts of bias have unlocked important court victories or settlements.<sup>41</sup> These outcomes illustrate the potential of storytelling to reveal contradictions between core values and discriminatory practices and instil a sense of moral urgency in adjudicators. A historic example is the US constitutional case of *Brown v. Board of Education*.<sup>42</sup> By foregrounding the psychological wounds of racial segregation, the plaintiffs managed to shift the focus from legal technicalities onto the clear human stakes at hand. The *Brown* decision profoundly altered both law and discourse on racial segregation, marking the end of the 'separate but equal' doctrine and acting as a catalyst for the Civil Rights Movement.<sup>43</sup> It set a significant legal precedent and reshaped the national and educational discourse on racial integration and equal opportunity at the time.<sup>44</sup> Moreover, it prompted a shift in the

<sup>36</sup> P. Ewick & S. Silbey, 'Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative' (1995) 29(2) *Law & Society Review*, pp. 197–226.

<sup>37</sup> J.B. Baron & J.A. Epstein, 'Is Law Narrative?' (1997) 45(1) *Buffalo Law Review*, pp. 141–87.

<sup>38</sup> E. Sweda, 'Litigation on behalf of Victims of Exposure to Environmental Tobacco Smoke: The Experience from the USA' (2001) 11(2) *European Journal of Public Health*, pp. 201–5.

<sup>39</sup> I. Fitzpatrick et al., 'Tobacco Industry Messaging around Harm: Narrative Framing in PMI and BAT Press Releases and Annual Reports 2011 to 2021' (2022) 10 *Frontiers in Public Health*, article 958354.

<sup>40</sup> M.B. Gerrard, 'Climate Change and the Environmental Lawyer' (2008) 22(3) *Natural Resources & Environment*, pp. 20–24.

<sup>41</sup> A.E. Ralph, 'The Story of a Class: Uses of Narrative in Public Interest Class Actions Before Certification' (2020) 95(1) *Washington Law Review*, pp. 259–314.

<sup>42</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

<sup>43</sup> M.J. Klarman, *Brown v. Board of Education and the Civil Rights Movement* (Oxford University Press, 2007).

<sup>44</sup> J.T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy* (Oxford University Press, 2001).

federal–state dynamic in enforcing civil rights, and ignited a broader societal and international discourse on racism, equality, and human rights.<sup>45</sup>

In South Africa, the constitutional case of *Grootboom v. South Africa*<sup>46</sup> was similarly framed within a narrative of social justice and constitutional values, with particular emphasis on its pivotal role in the post-apartheid legal system. In this case, an impoverished community that had been subjected to repeated forced displacement secured a landmark judgment from the Constitutional Court recognizing the right to adequate housing as a fundamental human right. Along with hundreds of other plaintiffs, more than half of whom were children, the charismatic lead plaintiff, Ms Grootboom, succeeded in giving ‘a human face to slum dwellers’.<sup>47</sup> Their testimonies not only helped to shape constitutional jurisprudence, but also led to a shift in perspectives on informal settlements among the general public.<sup>48</sup> This case provides another example of litigation’s potential to shape legal outcomes and discourse when systemic issues are made tangible through personal stories.

Finally, while not a climate case, *Oposa v. Factoran*,<sup>49</sup> from the Philippines, sets a foundational precedent in recognizing the rights of future generations in relation to environmental harm. Minors represented by their parents filed a petition against the Philippine government for failing to protect their constitutional right to a healthy environment. The narrative centred on the concept of intergenerational justice, emphasizing that environmental degradation would harm future generations. The Supreme Court of the Philippines embraced this narrative, ruling that the plaintiffs had legal standing to sue on behalf of future generations. This landmark decision not only changed the environmental legal landscape in relation to the interests of those not yet born, but also powerfully shaped – and continues to shape – the legal discourse on intergenerational justice.<sup>50</sup>

As climate lawsuits start to grapple with the rights and interests of future generations, they still face the distinct challenge of compellingly representing such persons who are unable to tell stories themselves. Careful narrative framing is required to avoid reinforcing unhelpful dominant normative assumptions and to inspire solidarity across space and time. The next section explores relational approaches in climate storytelling that address these complexities. Though largely unexamined in legal scholarship on climate litigation, relational frameworks provide valuable models

<sup>45</sup> M.L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton University Press, 2000).

<sup>46</sup> *Government of the Republic of South Africa and Others v. Grootboom and Others*, (CCT11/00), [2000] ZACC 19.

<sup>47</sup> M. Langford, ‘Housing Rights Litigation: Grootboom and Beyond’, in M. Langford et al. (eds), *Socio-Economic Rights in South Africa: Symbols or Substance?* (Cambridge University Press, 2014), pp. 187–225, at 207.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Minors Oposa v. Factoran*, G.R. No. 101083, 224 S.C.R.A. 792 (1993).

<sup>50</sup> See further A.A. Oposa Jr, *Shooting Stars and Dancing Fish: A Walk to the World We Want* (Ramon Aboitiz Foundation Inc. (RAFI), 2017), available at: <https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1012&context=environmental>; M. Socorro Manguiat & V. Paolo Yu, ‘Maximizing the Value of *Oposa v. Factoran*’ (2003) 15(3) *Georgetown International Environmental Law Review*, pp. 487–96.

for representing future generations in ways that contest the individualistic worldviews underpinning the climate crisis.

### 3. Relational Climate Justice Narratives

Litigation narratives carry the risk of reinforcing wider hegemonic discourse underlying the climate crisis and related injustices. This risk is real: as Tschakert notes, climate justice narratives have so far largely failed to represent marginalized voices, enabling ongoing 'exclusion, erasure, and [dehumanization]'.<sup>51</sup> More broadly, storytelling can feed into 'colour-blind' narratives that downplay the differing capacities, responsibilities, and burdens of loss and damage.<sup>52</sup> These risks are even more pronounced in narratives focused on future generations. Specifically, the often-speculative quality of such narratives may eclipse authentic voices reflecting the lived realities of the climate crisis.<sup>53</sup> Narratives focused on future generations in a particular country or locality may ignore the global or spatial dimensions of intergenerational equity and justice.<sup>54</sup> Dystopian scenarios used to demonstrate future impacts could foster climate anxiety and paralysis, particularly among young people, undermining mobilization for climate justice.<sup>55</sup> Finally, as Hilson notes, future generations or future frames risk signalling that climate change is merely a future concern, leading to discounting.<sup>56</sup>

These risks, and the tensions between them, reveal the difficulty of conveying future interests while appreciating current climate injustices. Relational narratives that recognize complex entanglements show promise in overcoming this challenge. Broadly speaking, these narratives resist the fragmentation associated with individualism and capitalist exploitation<sup>57</sup> and foster an expansive sense of self as deeply interconnected with the living world instead. Relational narratives resonate with a wide range of philosophical and spiritual traditions that emphasize relationality and interconnectedness.<sup>58</sup> However, relational worldviews are most strongly held

<sup>51</sup> P. Tschakert, 'More-Than-Human Solidarity and Multispecies Justice in the Climate Crisis' (2022) 31(2) *Environmental Politics*, pp. 277–96, at 285.

<sup>52</sup> K. Whyte, 'Indigenous Climate Change Studies: Indigenizing Futures, Decolonizing the Anthropocene' (2017) 55(1–2) *English Language Notes*, pp. 153–62; A. Neimanis, 'The Weather Underwater: Blackness, White Feminism, and the Breathless Sea' (2019) 34(102) *Australian Feminist Studies*, pp. 490–508.

<sup>53</sup> See Humphreys, n. 10 above.

<sup>54</sup> Ibid. See also P. Paiement, 'Urgent Agenda: How Climate Litigation Builds Transnational Narratives' (2020) 11(1–2) *Transnational Legal Theory*, pp. 121–43.

<sup>55</sup> C. Hickman et al., 'Climate Anxiety in Children and Young People and Their Beliefs about Government Responses to Climate Change: A Global Survey' (2021) 5(12) *The Lancet Planetary Health*, pp. e863–73.

<sup>56</sup> C. Hilson, 'Framing Time in Climate Change Litigation' (2019) 9(3) *Oñati Socio-Legal Series*, pp. 361–79.

<sup>57</sup> C. Vinthagen, *A Theory of Nonviolent Action: How Civil Resistance Works* (Zed Books, 2015).

<sup>58</sup> The idea of interconnectedness finds resonance in Eastern spiritual traditions such as Buddhism, Taoism, Confucianism, and Hinduism, where the interrelation of all life forms is a central tenet; see G.-M. Shien, 'The Epistemology of Buddhism, Taoism and Confucianism' (1953) 28(106) *Philosophy*, pp. 260–4. In Africa, relationality is inherent in the tradition of *Ubuntu*, translating as 'I am we; I am because we are, we are because I am'; see, e.g., D. Sulamoyo, '"I Am Because We Are": Ubuntu as a Cultural Strategy for OD and Change in Sub-Saharan Africa' (2010) 28(4) *Organization Development Journal*,

within Indigenous societies. As Simpson points out, Indigenous knowledge systems often possess an integrated understanding of the relationship between human bodies and their surrounding environments, articulated through spiritual or cultural practices.<sup>59</sup> Her work details how Indigenous philosophies emphasize relationality, reciprocity, and collective continuity with the living world.<sup>60</sup> Indigenous scholars like Kimmerer similarly emphasize reciprocity between ancestors, current generations, and descendants.<sup>61</sup> This reciprocity is closely related to traditional territories, which are inherited from ancestors and to be cared for in ways that benefit current and future generations.<sup>62</sup> The ‘Seventh Generation Principle’ of the Haudenosaunee (Iroquois) Confederacy, whereby decisions made today should be geared towards ensuring a sustainable world seven generations into the future, is a well-known expression of this ethos.<sup>63</sup> Indigenous conceptions of temporality as ‘spiralling’, lived through narratives of, among others, cyclicity and reversal, challenge dystopian narratives of climate crises.<sup>64</sup> In other Indigenous traditions the temporal disjunction between past, present, and future collapses altogether, such as in Aboriginal Dreaming, which is a time that has been referred to by Stanner as ‘everywhen’. As Stanner puts it: ‘One cannot “fix” The Dreaming in time: it was, and is, everywhen’.<sup>65</sup> Storytelling tradition is central to these narratives.<sup>66</sup> Crucially, it often involves a continuous dialogue with ancestors and descendants.<sup>67</sup> Animals, plants, and entities

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pp. 41–51; I.N. Goduka, ‘African/Indigenous Philosophies: Legitimizing Spiritually Centred Wisdoms within the Academy’, in P. Higgs et al. (eds), *African Voices in Education* (Juta, 2000), pp. 63–83. In Western philosophy, Spinoza’s work most prominently posits a fundamental unity of existence, where individual beings are modes of a single, infinite substance; see, e.g., E. Costa, ‘Mode, Aspects, Power: Spinoza’s Relational Metaphysics’ (University of London, 2020). Animism and Neo-Paganism, too, underscore the living connection between humans, nature, and the spiritual realm, fostering a relational worldview; see, e.g., K. Rountree, ‘Neo-Paganism, Animism, and Kinship with Nature’ (2012) 27(2) *Journal of Contemporary Religion*, pp. 305–20. See further J. Lent, *The Web of Meaning: Integrating Science and Traditional Wisdom to Find our Place in the Universe* (New Society, 2021).

<sup>59</sup> L.B. Simpson, *As We Have Always Done: Indigenous Freedom Through Radical Resistance* (University of Minnesota Press, 2017).

<sup>60</sup> Ibid.

<sup>61</sup> R. Kimmerer, *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge and the Teachings of Plants* (Milkweed Editions, 2013).

<sup>62</sup> R. Tsosie, ‘Climate Change and Indigenous Peoples: Comparative Models of Sovereignty’ (2013) 26(2) *Tulane Environmental Law Journal*, pp. 239–57, at 244; see also R. Tsosie, ‘Tribal Environmental Policy in an Era of Self-Determination: The Role of Ethics, Economics, and Traditional Ecological Knowledge’ (1996) 21 *Vermont Law Review*, pp. 225–333.

<sup>63</sup> Haudenosaunee Confederacy, ‘Values’, available at: <https://www.haudenosauneeconfederacy.com/values>.

<sup>64</sup> K.P. Whyte, ‘Indigenous Science (Fiction) for the Anthropocene: Ancestral Dystopias and Fantasies of Climate Change Crises’ (2018) 1(1–2) *Environment and Planning E: Nature and Space*, pp. 224–42; see also S. Leddy, ‘We Should All Be Reading More Ursula Le Guin’, *The Outline*, 28 Aug. 2019, available at: <https://theoutline.com/post/7886/ursula-le-guin-carrier-bag-theory?zd=1&chx0026;zi=juaqu5j3>.

<sup>65</sup> W.E.H. Stanner, ‘The Dreaming’, in W.A. Lessa & E. Vogt (eds), *Reader in Comparative Religion: An Anthropological Approach* (Harper and Row, 1972), pp. 269–72.

<sup>66</sup> G.L. Dillon, ‘Native Slipstream’, in B.J. Stratton (ed.), *The Fictions of Stephen Graham: A Critical Companion* (University of New Mexico Press, 2016), pp. 343–56, at 345.

<sup>67</sup> Whyte, n. 52 above, p. 160 (with references).

such as water are seen as knowledge bearers in their own right and form part of these collectives.<sup>68</sup>

Several strands of contemporary scholarship have likewise sought to develop relational frameworks that can bridge divisions across time, space, and species, often drawing from Deleuze's Spinozist monism.<sup>69</sup> For example, Alaimo identifies intergenerational justice as a promising frame for storytelling, explaining how it acknowledges temporal interdependencies and collective responsibilities.<sup>70</sup> This frame draws on trans-corporeality, understood as a 'theoretical site', which highlights material exchanges across bodily borders.<sup>71</sup> As part of new materialist scholarship, trans-corporeality aims to disrupt dualistic modes of thinking that separate humans from their environment.<sup>72</sup> It expressly draws on insights from the natural sciences, such as the understanding that humans, as 'microbial crowds', are inseparable from non-human life.<sup>73</sup> Feminist scholarship extends this further, critiquing dualistic conceptions of humanity versus nature as enabling exploitation.<sup>74</sup> Through this lens, the climate crisis may be seen as 'a relational crisis, reflective of the dominant culture's collective states of disassociation and disorientation'.<sup>75</sup> While the foundation of this scholarship is largely Western,<sup>76</sup> it intersects with the Indigenous relational epistemologies discussed above.<sup>77</sup>

As diverse as they are, the relational perspectives and practices discussed here all contest the notion of individuals that are firmed up in time within the physical boundaries of a single body. In this way, they reframe climate justice beyond the

<sup>68</sup> K. Whyte, C. Caldwell & M. Schaefer, 'Indigenous Lessons about Sustainability Are Not Just for "All Humanity"', in J. Sze (ed.), *Sustainability: Approaches to Environmental Justice and Social Power* (New York University Press, 2020), pp. 149–79, at 156.

<sup>69</sup> E.g., D. Haraway, 'A Cyborg Manifesto: Science, Technology, and Socialist-Feminism in the Late Twentieth Century', in C. Hanks (ed.), *Technology and Values: Essential Readings* (Wiley-Blackwell, 2010), pp. 225–46; D. Haraway, *Manifestly Haraway* (University of Minnesota Press, 2016); T. van Dooren, 'Care: Living Lexicon for the Environmental Humanities' (2014) 5(1) *Environmental Humanities*, pp. 291–4.

<sup>70</sup> E.A. Page, 'Intergenerational Justice and Climate Change' (1999) 47(1) *Political Studies*, pp. 53–66.

<sup>71</sup> S. Alaimo, *Bodily Natures: Science, Environment, and the Material Self* (Indiana University Press, 2010).

<sup>72</sup> S. Alaimo, 'Trans-Corporeal Feminisms and the Ethical Space of Nature', in S. Alaimo & S. Hekman (eds), *Material Feminisms* (Indiana University Press, 2008), pp. 237–64.

<sup>73</sup> S.F. Gilbert, J. Sapp & A. Tauber, 'A Symbiotic View of Life: We Have Never Been Individuals' (2012) 87(4) *The Quarterly Review of Biology*, pp. 325–41.

<sup>74</sup> V. Plumwood, *Feminism and the Mastery of Nature* (Routledge, 1993).

<sup>75</sup> As per K. Chayne, 'Sharon Blackie: Re-enchanting the Earth through Mythology', *Green Dreamer* podcast, episode 374, 27 Sept. 2022, available at: <https://www.greendreamer.com/podcast/sharon-blackie-hagitude-reimagining-the-second-half-of-life>.

<sup>76</sup> With important exceptions, e.g., N.U. Gutiérrez, 'Gender in Climate Litigation in Latin America: Epistemic Justice through a Feminist Lens' (2023) *Journal of Human Rights Practice*, huad030.

<sup>77</sup> Of course, we do not seek to universalize these epistemologies. Instead, our core sentiment echoes a shift away from universalizing frameworks towards a more situated understanding of climate justice, resonating with the call of anti-colonial scholars like Max Liboiron for more situated, context-driven methodologies; see M. Liboiron, *Pollution Is Colonialism* (Duke University Press, 2021), pp. 152–3. See also C. Trisos, J. Auerbach & M. Katti, 'Decoloniality and Anti-oppressive Practices for a More Ethical Ecology' (2021) 5 *Nature Ecology & Evolution*, pp. 1205–12; I. Braverman, 'Environmental Justice, Settler Colonialism, and More-Than-Humans in the Occupied West Bank: An Introduction' (2021) 4(1) *Environment and Planning E: Nature and Space*, pp. 3–27.

human towards multispecies, intergenerational entanglements.<sup>78</sup> We should underscore here that while the emphasis on entanglement may appear to be mostly descriptive, it inevitably raises questions about normative applications. In particular, how should resources, power, and opportunities be distributed if humans are not discrete moral agents but rather intricately enmeshed material-discursive phenomena? This pressing question reveals tensions between relational theories debunking anthropocentrism and normative frameworks premised on human exceptionalism.

While some scholarship engages this tension, examining environmental ethics and multispecies justice from a relational lens,<sup>79</sup> explicit reflection remains limited. This article does not profess resolution but rather aims to consider how relational insights might inform litigation storytelling to catalyze more ethical and inclusive outcomes. It explores whether relational narratives may foster receptiveness to alternative distributions of power and resources aligned with climate justice, even if – or precisely because – they transverse boundaries between ‘human’ and ‘nature’. This may be achieved, for example, where relational perspectives effectively dismantle cultural narratives based on a linear notion of progress fuelled by perpetual economic growth,<sup>80</sup> or by countering capitalist and colonial ideologies enabling the climate crisis.<sup>81</sup> It may also transpire where stories foregrounding interconnectivity confront climate individualization and underscore systemic solutions. In its most potent form, relational storytelling manifests as intellectual resistance,<sup>82</sup> using the socially situated epistemic advantage of marginalized groups to demonstrate how equity can be reconciled across groups and time. As Gutiérrez points out, precisely by challenging the traditional power dynamics in legal discourse, climate litigation can catalyze public engagement for transformation beyond reactive reforms.<sup>83</sup> This understanding informs the analysis of climate litigation storytelling below, which grapples with translating future generations’ interests into compelling yet strategic narratives.

Finally, before examining litigation narratives, it is important to note complexities within intergenerational equity frameworks themselves. We note that time and temporality are contested and that Indigenous concepts of time can collapse past, present, and future (such as ‘everywhen’, referred to above, as describing the temporalities of Aboriginal Dreaming).<sup>84</sup> In Western thinking, notions of justice

<sup>78</sup> C. Fredengren & C. Asberg, ‘Checking in with Deep Time: Intragenerational Care in Registers of Feminist Posthumanities, the Case of Gästadsverken’, in R. Harrison & C. Sterling (eds), *Deterritorializing the Future: Heritage in, of and after the Anthropocene* (Open Humanities Press, 2019), pp. 56–95; C. Fredengren, ‘Personhood of Water: Depositions of Bodies and Things in Water Contexts as a Way of Observing Agential Relationships’ (2018) 26(1) *Current Swedish Archaeology*, pp. 219–45.

<sup>79</sup> See, e.g., D. Haraway, ‘Staying with the Trouble for Multispecies Environmental Justice’ (2018) 8(1) *Dialogues in Human Geography*, pp. 102–5; Tschakert, n. 51 above.

<sup>80</sup> See generally J. Hickel, *Less is More: How Degrowth Will Save the World* (Penguin Random House, 2017); G. Kallis, ‘In Defence of Degrowth’ (2011) 70(5) *Ecological Economics*, pp. 873–80.

<sup>81</sup> Whyte, n. 52 above.

<sup>82</sup> Simpson, n. 59 above.

<sup>83</sup> Gutiérrez, n. 76 above.

<sup>84</sup> W.E.H. Stanner, ‘The Dreaming’, in W.E.H. Stanner, *The Dreaming and Other Essays* (Black Inc., 2009), pp. 57–72; M. Rifkin, *Beyond Settler Time: Temporal Sovereignty and Indigenous Self-Determination* (Durham University Press, 2017).

between generations are often complicated by competing temporal assumptions and obligations to posterity.<sup>85</sup> For instance, utilitarian philosophical approaches often emphasize short-term projections of costs versus benefits, discounting future interests.<sup>86</sup> In contrast, deontological perspectives tend to consider moral duties regardless of temporality,<sup>87</sup> and scepticism about meaningfully conveying future interests raises questions about standing and justiciability.<sup>88</sup> Strategic storytelling must address these tensions or even aim to disrupt Western temporality itself. As explored further below, narratives premised on reciprocity across time may resonate more profoundly than abstract projections of harm. By framing intergenerational ties through lived experience in ancestral traditions, relational stories offer means of overcoming tempo-spatial divisions. Still, we underscore that translating future stakes into compelling narratives for modern legal systems remains an inherently complex pursuit.

#### 4. Climate Litigation Narratives in Practice

How have recent climate lawsuits incorporated intergenerational frameworks through strategic narrative choices? While relational frameworks recognize complex interconnections obscured by individualism, some leading cases reveal tensions in representing future generations and highlighting injustices across time and space.

For example, the landmark case *Urgenda Foundation v. State of the Netherlands* initially granted standing to Dutch environmental non-governmental organization (NGO) Urgenda based in part on representing the interests of future generations.<sup>89</sup> However, this was overturned on appeal,<sup>90</sup> with the Dutch Supreme Court recognizing Urgenda's standing only on behalf of current generations living in the Netherlands.<sup>91</sup> As noted elsewhere,<sup>92</sup> this decision effectively ignored considerations

<sup>85</sup> As explored in detail by A.S. Campos, 'Intergenerational Justice Today' (2018) 13(3) *Philosophy Compass*, article e12477.

<sup>86</sup> See, e.g., R.A. Posner, *Catastrophe: Risk and Response* (Oxford University Press, 2005). For utilitarian critiques of future discounting, see, e.g., P. Singer, *Practical Ethics* (Cambridge University Press, 3<sup>rd</sup> edn, 2011); T. Ord, *The Precipice: Existential Risk and the Future of Humanity* (Hachette Books, 2021).

<sup>87</sup> J. Rawls, *A Theory of Justice* (Harvard University Press, 1971).

<sup>88</sup> See also C.D. Stone, 'Should Trees Have Standing? Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review*, pp. 450–501.

<sup>89</sup> *Urgenda Foundation v. State of the Netherlands*, District Court of The Hague, Judgment, 24 June 2015, HAZA C/09/00456689, ECLI:NL:RBDHA:2015:7145 (citing the sustainability purpose in Urgenda's articles of association). See also J. van Zeven, 'Establishing a Governmental Duty of Care for Climate Change Mitigation: Will Urgenda Turn the Tide?' (2015) 4(2) *Transnational Environmental Law*, pp. 339–57.

<sup>90</sup> *State of the Netherlands v. Urgenda Foundation*, The Hague Court of Appeal, Judgment, 9 Oct. 2018, ECLI:NL:GHDHA:2018:2591. See also B. Mayer, 'The State of the Netherlands v. Urgenda Foundation: Ruling of the Court of Appeal of The Hague (9 October 2018)' (2019) 8(1) *Transnational Environmental Law*, pp. 167–92.

<sup>91</sup> *State of the Netherlands v. Urgenda Foundation*, Supreme Court of the Netherlands, ECLI:NL:HR:2019:2007, Judgment, 20 Dec. 2019.

<sup>92</sup> M. Wewerinke-Singh & A. McCoach, 'The State of the Netherlands v Urgenda Foundation: Distilling Best Practice and Lessons Learnt for Future Rights-Based Climate Litigation' (2021) 30(2) *Review of European, Comparative & International Environmental Law*, pp. 275–83.

of intergenerational equity and contradicts core tenets of climate justice. Although the Supreme Court eventually issued a landmark ruling mandating emissions reduction, its narrow standing analysis lost the initial framing on intergenerational obligations.<sup>93</sup> The abstract and impersonal way that future generations were represented in legal arguments may have contributed to this outcome.<sup>94</sup> The framing of the case may further be critiqued for rendering invisible the disproportionate climate impacts already suffered by billions of predominantly black and brown people outside the Netherlands, which helped to create a ‘colour-blind’ transnational narrative.<sup>95</sup>

In contrast, the German case of *Neubauer et al. v. Germany*<sup>96</sup> featured powerful first-hand testimony from youth plaintiffs from Bangladesh, Nepal, and Germany about how climate change threatens their future. Although the case did not directly involve the representation of future generations understood as those who are as yet unborn, it offers valuable insights into the potential implications of a future generations framing in climate litigation. On the one hand, presenting youth plaintiffs as a ‘bridge’ to the future is likely to have played a key role in the resulting ruling by the German Constitutional Court, which established a violation of the German youth’s fundamental freedoms based on the newly developed principle of ‘intertemporal guarantees of freedom’.<sup>97</sup> Unfortunately, however, the singular focus on future impacts may have inadvertently obscured issues of intragenerational equity and climate justice.<sup>98</sup> This obscurement manifested legally in the dismissal of the claims of the Bangladeshi and Nepalese youth for lack of standing.<sup>99</sup> Further, it is visible in the lack of serious regard for historical emissions in the determination of Germany’s mitigation obligations.<sup>100</sup> As in *Urgenda*, these outcomes illustrate Humphreys’ concerns about privileging speculative future harm over addressing the urgent needs of those most affected by climate impacts and correcting related historical inequities.<sup>101</sup> In anticipation of future rulings, it is also pertinent to mention *Duarte v. Portugal*,<sup>102</sup> a case pending before the European Court of Human Rights (ECtHR), which raises similar concerns and may set a significant precedent in climate litigation.

The *Carbon Majors Inquiry*<sup>103</sup> of the Philippines Human Rights Commission is a powerful example of how climate litigation storytelling can centre those most affected

<sup>93</sup> Ibid.

<sup>94</sup> Hilson, n. 56 above, p. 375.

<sup>95</sup> Paiement, n. 54 above.

<sup>96</sup> *Neubauer et al. v. Germany*, Bundesverfassungsgericht (BVerfG) [German Federal Constitutional Court], 24 Mar. 2021, Case Nos BvR 2656/18/1, BvR 78/20/1, BvR 96/20/1, BvR 288/20, available at: [http://www.bverfg.de/e/rs20210324\\_1bvr265618en.html](http://www.bverfg.de/e/rs20210324_1bvr265618en.html).

<sup>97</sup> Ibid., paras 120, 185.

<sup>98</sup> L. Kulamadayil, ‘Between Activism and Complacency: International Law Perspectives on European Climate Litigation’ (2021) 10(5) *ESIL Reflections*, pp. 1–7.

<sup>99</sup> *Neubauer*, n. 96 above, from para. 174.

<sup>100</sup> Ibid., para. 29.

<sup>101</sup> Humphreys, n. 10 above.

<sup>102</sup> ECtHR, *Duarte Agostinho and Others v. Portugal and 32 Other Member States*, Appl. No. 39371/20, Communicated Case, 30 Nov. 2020, relinquished to the Grand Chamber on 29 June 2022.

<sup>103</sup> *In re Greenpeace Southeast Asia and Others* (2019), Republic of the Philippines Commission on Human Rights, Case No: CHR-NI-2016-0001 (*Carbon Majors Inquiry*).

while confronting systemic issues. This case spotlighted survivors of typhoon Yolanda (Haiyan) – the deadliest typhoon in modern records of the Philippines – and testified to the immense personal tragedies experienced. For example, a young woman explained how losing her home and cherished personal possessions felt like losing ‘my identity, my dreams, my significance as a person’.<sup>104</sup> This first-hand conveying of climate impacts counteracted dominant narratives that downplayed the human costs. The Commission found the extreme impacts of climate change to ‘dehumanize’ people, reflecting the successful framing of the case around human experiences to compellingly reveal collective stakes.<sup>105</sup> Equally important, however, is the attribution of those experiences to the exploitative practices of fossil fuel companies.<sup>106</sup> As Nosek observes, this framing effectively countered the broader discourse on individual responsibility for the climate crisis, which the fossil fuel industry itself has been working tirelessly to promote.<sup>107</sup> While not grappling explicitly with future generations’ representation, the Commission embraced the petitioners’ broad temporal framing, which emphasized ‘the harrowing situation of the Filipino people who have suffered, will continue to suffer, and have yet to suffer as they are deprived of their human rights by the myriad effects of climate change’.<sup>108</sup>

*Juliana v. United States* is notable for foregrounding the youth plaintiffs’ spiritual and emotional bonds with threatened ecosystems through effective storytelling.<sup>109</sup> By emphasizing nature’s intrinsic value, the narrative emerging from these stories challenges conceptions of the environment as merely a resource for human use.<sup>110</sup> Of great significance also is the display of youth resilience in protecting their heritage for future generations, inspiring adults ‘to never give up on behalf of the world’s children’.<sup>111</sup> This resilience-focused narrative rejects victimhood and instead asserts a relational continuity across time.<sup>112</sup> In doing so, it avoids inadvertently undermining intergenerational solidarity by portraying children as innocent victims of the decisions by older generations in power. As in *Carbon Majors*, the emphasis in *Juliana* on the accountability of a major historical polluter reinforces an important part of the discourse on climate justice. The narrative falls short, however, of addressing both inter- and intragenerational equity in a holistic fashion. To achieve this, it would have needed to consider how the excessive contributions of the US to atmospheric greenhouse gas emissions are causing harm globally, including in climate-vulnerable states like the Philippines.

<sup>104</sup> Ibid., para. 34.

<sup>105</sup> Ibid., para. 35.

<sup>106</sup> Ibid.

<sup>107</sup> M.E. Mann, *The New Climate War: The Fight to Take Back Our Planet* (PublicAffairs, 2021).

<sup>108</sup> *Carbon Majors Inquiry*, n. 103 above, para. 67.

<sup>109</sup> *Juliana v. United States*, 217 F. Supp. 3d 1224 (D. Or. 2016).

<sup>110</sup> M.C. Wood, ‘Nature’s Trust: Reclaiming an Environmental Discourse’ (2013) 31(2) *Virginia Environmental Law Journal*, pp. 257–322.

<sup>111</sup> Normandy Chair for Peace, ‘Litigating Climate Change’, 26 Jan. 2022, available at: <https://normandychairforpeace.org/2022/01/26/litigating-climate-change>.

<sup>112</sup> Delgado, n. 31 above, p. 2411.

Together, these cases show how storytelling in climate litigation can support intergenerational narratives that effectively counter individualistic or divisive assumptions. However, the cases also show the complexity involved in using storytelling as part of climate litigation strategies, including the risk of downplaying or even undermining key aspects of climate justice. The next section explores how Indigenous storytelling provides valuable models for representing future generations' interests while shaping legal norms and procedures in the process. It shows how taking Indigenous cosmologies seriously in the design of climate litigation cases can not only challenge dominant cultural narratives that are intertwined with the climate crisis but also help to ensure that remedial measures are better aligned with inter- and intragenerational justice.

### 5. Indigenous Leadership in Storytelling

Indigenous storytelling harbours enormous potential for shaping the representation of future generations in climate litigation. Indigenous narratives not only provide a lens onto the spiritual and cultural devastation inflicted by climate impacts but also underscore the sacred interconnectivity between human communities and the broader living world.<sup>113</sup> This analysis draws upon cases from around the world to illustrate the potential of Indigenous storytelling to help to comprehend nature, as Auz puts it, 'from the voices that live with and in it'.<sup>114</sup>

Indigenous plaintiffs have achieved significant victories in cases grounded in relational worldviews. In *Held v. Montana*,<sup>115</sup> for instance, Indigenous plaintiffs explained their community's profound bond with the threatened natural world. Specifically, Sariel and others articulated how their physical and mental health, and even their survival, depended on their ability to hunt game, gather medicinal plants, and practise their religion, all intrinsically linked to the health of the land and the environment.<sup>116</sup> This ancestral environmental knowledge, transmitted across generations, established a critical continuum between past, present, and future. The Montana court's ruling formally recognized injuries to 'cultural traditions' and 'way of life', signalling receptiveness to the relational themes woven into the Indigenous narratives.<sup>117</sup> The ruling also represents an important normative development, with the holistic, long-term view of environmental stewardship reflected in the court's interpretation of the right to a 'clean and healthful environment' protected under Montana's Constitution.<sup>118</sup>

<sup>113</sup> R.S. Abate & E.A. Kronk, 'Commonality among Unique Indigenous Communities: An Introduction to Climate Change and Its Impacts on Indigenous Peoples' (2013) 26(2) *Tulane Environmental Law Journal*, pp. 179–95.

<sup>114</sup> J. Auz, "'So, This Is Permanence': The Inter-American Human Rights System as a Liminal Space for Climate Justice' (2021) 22(2) *Melbourne Journal of International Law*, pp. 1–34.

<sup>115</sup> *Held v. State of Montana*, Montana First Judicial District Court, Case No. CDV-2020-307, Complaint filed 13 Mar. 2020.

<sup>116</sup> *Ibid.*, p. 10.

<sup>117</sup> *Held v. State of Montana*, n. 115 above, Order of 4 Aug. 2021.

<sup>118</sup> *Ibid.*, para. 286.

In Australia, *Youth Verdict*<sup>119</sup> resulted in the rejection of a proposed coal mine in Queensland, on the basis of its human rights impacts. First Nations storytelling foregrounded an intergenerational dimension, which not only went to the heart of whether Aboriginal and Torres Strait Islander peoples in Queensland could continue to transmit their culture but also squarely challenged normative disjunctive temporalities of past, present, and future. As put in Juritju Fourmile's testimony:

We as Indigenous people, First Nations people don't just think about one generation or ourselves. We think about the generations that come after us, those that come before us as well. We learn their lessons and we take on their lessons and their knowledge.<sup>120</sup>

This testimony weaved in relationships with other species and places as well as justice for future generations:

It's the trees. Those trees are connected to this land. We as people are connected to those trees. They die, we die. Think of it holistically, the bigger picture, you know? If – I'm young. I'm only 25 years old and I've been brought into this. I've been born into this. I've been born into people's past mistakes, and hopefully we can correct them, because if we can't correct them, what's the – what's – what's the point for the next generation coming through? What choice do they have? Are they going to be able to look after this land correctly? Will they have the tools to look after this land correctly?<sup>121</sup>

At the international level, the landmark case of *Billy v. Australia*<sup>122</sup> similarly used a legal framework of individual rights to convey stories of climate losses that were nevertheless, in effect, communal and intergenerational. One of the petitioners, Keith Pabai, explained:

The Island makes us who we are. Our whole life comes from the island and the nature here, the environment. It is a spiritual connection. We know how to hunt and fish from this island – to survive here. We get that from generations of knowledge that have been passed down to us. That is the cultural inheritance we teach our children. It is so important to us, this strong spiritual connection to this island, our homeland.<sup>123</sup>

Yessie Mosby, another plaintiff, elaborated in the petition on how the Islanders could not teach children about their inheritance and culture in another man's land, separated from the sacredness and power of their own.<sup>124</sup> The petition quoted from the Inter-American Court of Human Rights (IACtHR) landmark decision in *Mayagna*

<sup>119</sup> *Waratah Coal Pty Ltd v. Youth Verdict Ltd & Others* (No 6), Land Court of Queensland, [2022] QLC 21.

<sup>120</sup> *Ibid.*, para. 1560.

<sup>121</sup> *Ibid.*

<sup>122</sup> United Nations (UN) Human Rights Committee, 'Views Adopted by the Committee under Article 5(4) of the Optional Protocol [of the ICCPR, n. 131 below], concerning Communication No. 3624/2019', *Daniel Billy et al v. Australia*, 21 July 2022, UN Doc. CCPR/C/135/D/3624/ 2019 (*Billy v. Australia*).

<sup>123</sup> *Billy v. Australia*, *ibid.*, Petition, para 41.

<sup>124</sup> *Ibid.*, para. 31.

(*Sumo*) *Awas Tingni Community v. Nicaragua*, which recognized Indigenous relationships to land as ‘not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations’.<sup>125</sup> This ruling forms part of a broader body of Inter-American jurisprudence shaped by Indigenous storytelling. An inspiring example is the case of *Kichwa People v. Ecuador*,<sup>126</sup> in which a relational narrative informed the finding of the IACtHR that permitting an oil company to carry out oil exploration activities on the Sarayukas’ territory, without prior consultation, violated their rights under the American Convention on Human Rights (ACHR).<sup>127</sup> The case turned on the impacts of oil drilling on the ‘living forest’ and its spiritual beings, as conveyed by a 92-year-old Yachak shaman:

In [the sector of the forest where explosives remain], half the beings that preserved the ecosystem have now gone ... They are the ones that maintain the jungle, the woods. If there is too much destruction ... the mountains will also collapse.<sup>128</sup>

The IACtHR ruling emphasized the sacredness of the forest and how the plaintiffs’ identity revolved around their relationship with the land.<sup>129</sup> Building on this jurisprudence, the Indigenous plaintiffs in *Billy v. Australia*<sup>130</sup> successfully argued that threats to passing down cultural knowledge and traditions on ancestral lands would violate their rights to culture and family life under the International Covenant on Civil and Political Rights (ICCPR).<sup>131</sup> These outcomes demonstrate how storytelling, when combined with strategically crafted legal arguments, can enhance accountability for climate injustices and shape legal norms through judicial interpretation.

The narrative developed in *Rights of Indigenous People*<sup>132</sup> reflects an even stronger climate justice framing, situating climate impacts within a factual framework of ongoing colonial dispossession. The petition to ten Special Rapporteurs of the United Nations (UN) Human Rights Council not only documented the impacts of climate change on the petitioners’ human rights but also provided a detailed account of their experience as Indigenous peoples in the US whose sovereignty continues to be denied, explaining how these distinct injustices are intertwined and mutually reinforcing. This counter-narrative was reinforced in media appearances, such as that of Nathan Jessee, observing that:

<sup>125</sup> Ibid., para. 202.

<sup>126</sup> *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*, IACtHR Series C No 245, 27 June 2012 (*Kichwa People v. Ecuador*).

<sup>127</sup> San José (Costa Rica), 22 Nov. 1969, in force 18 July 1978, available at: <http://www.cidh.org/basicos/English/Basic3.American%20Convention.htm>.

<sup>128</sup> *Kichwa People v. Ecuador*, n. 126 above, para. 218.

<sup>129</sup> Ibid.

<sup>130</sup> *Billy v. Australia*, n. 122 above.

<sup>131</sup> New York, NY (US), 16 Dec. 1966, in force 23 Mar. 1976, available at: <https://www.ohchr.org/sites/default/files/ccpr.pdf>.

<sup>132</sup> *Rights of Indigenous People in Addressing Climate-Forced Displacement*, USA 16/2020 (2020).

It seems as though the migration and assimilation of Indigenous peoples is treated as a foregone conclusion while the state accommodates a future for settler industries and leisure, perhaps an example of what anthropologist Elizabeth Marino termed 'adaptation oppression' and 'adaptation privilege.' ... [T]his is not new. Settler colonialism has long stifled Indigenous adaptation and environmental knowledge as a strategy for expropriating lands and development.<sup>133</sup>

The petition included evidence of government officials denying the Indigenous petitioners aid or excluding them from legal protection to which they were entitled.<sup>134</sup> In legal terms, these stories provided compelling evidence of the claim that the US had violated the petitioners' right to self-determination and related human rights. By integrating these historic injustices, the narrative emphasized continuity through time and relationally across groups.<sup>135</sup> Centring Indigenous voices and intergenerational knowledge transmission further served to challenge assumptions of human dominance over nature.<sup>136</sup> In the words of Chief Shirell:

We have joined together with our Alaskan relatives to bring awareness to the damage caused by greed and selfishness, with a complete disregard for Mother Earth and all living beings. We are showing the world that you do not have to just sit by and watch our planet, our health and lifeways be destroyed. We do not have to accept the repeated attempts of genocide against our peoples.<sup>137</sup>

The link between Indigenous rights and fossil fuel extraction has been foregrounded in numerous other rights-based cases.<sup>138</sup> Particularly noteworthy are Indigenous-led

<sup>133</sup> C. Comardelle et al., 'Resisting the Oblivion of Eco-Colonialism: A Conversation with Tribal Leaders from Louisiana's Gulf Coast', 11 Oct. 2020, available at: <https://www.anthropocene-curriculum.org/contribution/resisting-the-oblivion-of-eco-colonialism>.

<sup>134</sup> *Rights of Indigenous People*, n. 132 above, pp. 25–38.

<sup>135</sup> J. Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (University of Toronto Press, 2002).

<sup>136</sup> Kimmerer, n. 61 above.

<sup>137</sup> Unitarian Universalist Service Committee (UUSC), 'Stories of Hope: Guest at Your Table 2020–2021', available at: <https://www.uusc.org/wp-content/uploads/2020/09/GAYT-2020-21-Stories-of-Hope.pdf>.

<sup>138</sup> It should be acknowledged that there is diversity in Indigenous perspectives on fossil fuel extraction. For example, few Indigenous communities have freely chosen to allow fossil fuel extraction on their lands, exercising sovereignty and benefiting economically. However, the cases discussed in this article reflect the experiences of communities who have suffered violations of their sovereignty and rights as a result of the impacts of extraction on ancestral lands and waters. The overarching concern is thus support for Indigenous self-determination. Where fossil fuel extraction and climate change undermine Indigenous sovereignty and stewardship over ancestral territories, as alleged by plaintiffs in the featured cases, it conflicts with Indigenous rights and interests regardless of potential economic benefits. While recognizing plurality, this article aims to highlight narratives of those resisting dispossession and ecological destruction, which threatens cultural survival, as assertions of sovereignty in themselves. Moreover, we argue that Indigenous relationality is grounded in Indigenous ontology (while recognizing that the way in which relationality is expressed differs across Indigenous worlds), which might also be described as decolonial. On the latter point see, e.g., T. Ingold, 'Hunting and Gathering as Ways of Perceiving the Environment', in T. Ingold (ed.), *The Perception of the Environment: Essays in Livelihood, Dwelling and Skill* (Routledge, 2000), pp. 40–60; see, in general, U.L. Vaai & A. Casimira, *Relational Hermeneutics: Decolonising the Mindset and the Pacific Itulagi* (University of the South Pacific Press and Pacific Theological College, 2017), especially p. 17 ('In the beginning was relationship! Relationality is in our blood. We came into being through relationships. And it is through us that

cases or initiatives seeking to broaden the concept of legal personhood by allocating legal personality and rights to ecosystems and species.<sup>139</sup> A poignant example is the legal effort of the White Earth Band of Ojibwe to protect *manoomin* (wild rice), asserting the ‘Rights of Manoomin’ to stop the construction of oil and gas infrastructure near the Standing Rock community.<sup>140</sup> This groundbreaking case builds on the Indigenous plaintiffs’ worldview to frame a distinct part of nature as a subject with legal rights, thus challenging hegemonic legal norms and narratives. Another example is legislation in New Zealand resulting from a settlement with Whanganui Māori *iwi*, following breaches of treaty obligations by the New Zealand Crown, which gave legal personhood to the Whanganui river.<sup>141</sup> Cases like these represent examples of how relational frameworks can potentially shape legal norms through the process of litigation.<sup>142</sup>

The seminal Colombian case of *Future Generations v. Ministry of the Environment and Others*<sup>143</sup> provides a clear illustration of these developments in a climate context. In this case, the plaintiffs innovatively employed a relationality-based storytelling approach that aligns with Indigenous worldviews. By strategically framing the Amazon as a living entity with intrinsic rights, the plaintiffs invoked Indigenous perspectives that see land and nature as interwoven in a complex network of relationships with humans and other

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relationships will flow and continue ... In this task, there is a need to rediscover and embrace that which constitutes the Pacific people’s worldview and epistemology. Decolonisation finds its practical expression in a return to *relationality*’). See also E.V. De Castro, *The Relative Native: Essays on Indigenous Conceptual Worlds* (Hau Books, 2015).

<sup>139</sup> See, e.g., D.R. Boyd, ‘Recognizing the Rights of Nature: Lofty Rhetoric or Legal Revolution’ (2018) 32(4) *Natural Resources & Environment*, pp. 13–7; A.L.T. Hillebrecht & M.V. Berros (eds), *Can Nature Have Rights? Legal and Political Insights* (Rachel Carson Centre Perspectives: Transformations in Environment and Society No. 6, 2017), available at: [doi.org/10.5282/rcc/8164](https://doi.org/10.5282/rcc/8164); A. Huneeus, ‘The Canon of Nature Rights’, University of Wisconsin Legal Studies Research Paper No. 1748, Apr. 2022, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4084873](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4084873); C. Pilon-Summons et al., ‘From Barriers to Boundary Objects: Rights of Nature in Australia’ (2022) 134(29) *Environmental Science & Policy*, pp. 13–22; C.M. Kauffman & P.L. Martin, ‘Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand’ (2018) 18(4) *Global Environmental Politics*, pp. 43–62; E. Kinkaid, ‘“Rights of Nature” in Translation: Assemblage Geographies, Boundary Objects, and Translocal Social Movements’ (2019) 44(3) *Transactions of the Institute of British Geographers*, pp. 555–70; G. Thompson, ‘Codifying the Rights of Nature: The Growing Indigenous Movement’ (2020) 59(2) *The Judges’ Journal*, pp. 12–5.

<sup>140</sup> *Manoomin et al. v. Minnesota Department of Natural Resources*, White Earth Tribal Court, Case No. GC21-0428, 4 Aug. 2021.

<sup>141</sup> Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. See, e.g., Martuwarra RiverOfLife et al., ‘Recognizing the Martuwarra’s First Law Right to Life as a Living Ancestral Being’ (2020) 9(3) *Transnational Environmental Law*, pp. 541–68.

<sup>142</sup> This is not to suggest that granting legal personhood or rights to (parts of) nature is without problems, or a silver bullet; see, e.g., E. Fitz-Henry, ‘Multi-Species Justice: A View from the Rights of Nature Movement’ (2022) 31(2) *Environmental Politics*, pp. 338–59; M.V. Berros, ‘Challenges for the Implementation of the Rights of Nature: Ecuador and Bolivia as the First Instances of an Expanding Movement’ (2021) 48(3) *Latin American Perspectives*, pp. 192–205; M. Tănăsescu, ‘Nature Advocacy and the Indigenous Symbol’ (2015) 24(1) *Environmental Values*, pp. 105–22. Moreover, there is always a risk that Rights of Nature becomes another form of Western conservation, which has tended to undermine traditional forms of resource management and governance, including by separating Indigenous peoples from their lands.

<sup>143</sup> *Future Generations v. Ministry of the Environment and Others*, STC 4360-2018.

beings.<sup>144</sup> This narrative method served as a conduit for the court to acknowledge the Amazon as a rights-bearing subject, thereby affirming Indigenous cosmologies.<sup>145</sup> The resulting legal breakthrough both broadens and complicates the Amazon's relational standing within ecological, social, and legal frameworks, thereby moving closer to the holistic understandings often found in Indigenous philosophies. It illustrates how the use of storytelling can produce an evolutionary challenge to conventional legal frameworks.<sup>146</sup>

LaDuke's perspective underscores the unwavering commitment of Indigenous groups to protect the Earth 'so that our ways of life are not lost and the next generation will have a place to call home'.<sup>147</sup> These narratives serve as models for compelling representation of human and more-than-human kin, and have played a pivotal role in securing 'hard-fought victories' in court battles against powerful opponents, which include multinational mining, lumber, and oil companies.<sup>148</sup> Remarkable about these victories is that even judges who might personally dismiss as absurd the idea of a sacred mountain or a river as an ancestor, have shown a willingness to recognize them in legal terms.<sup>149</sup> Given the position of the judiciary as a stronghold of institutional modernity, this apparent receptiveness to the resurging global influence of notions related to sacred nature underscores how relational narratives can resonate across groups and generations.<sup>150</sup>

This power is further illustrated by the emphasis of the campaign against the Dakota Access Pipeline on the sanctity of more-than-human relatives. Remarkably, the campaign's appeal extended to a global audience, with people from Iraq, Egypt, various European countries, and the Philippines, among others, joining the Indigenous and other American activists in rituals and other forms of protest.<sup>151</sup> As Ghosh observes, the activists' shared understanding of the sanctity of the landscape emerged from empathy, an innate capacity of humans and many other life-forms. Critically, it is this capacity that is nurtured by stories.<sup>152</sup>

## 6. Conclusion

This article has analyzed the potential of storytelling in climate litigation grappling with obligations to future generations. It explored how litigation narratives may either

<sup>144</sup> Bustos & Eslava-Bejarano, n. 3 above.

<sup>145</sup> For a critique see M. Tănăsescu, 'Rights of Nature, Legal Personality, and Indigenous Philosophies' (2020) 9(3) *Transnational Environmental Law*, pp. 429–53; P. Wesche, 'Rights of Nature in Practice: A Case Study on the Impacts of the Colombian Atrato River Decision' (2021) 33(3) *Journal of Environmental Law*, pp. 531–55.

<sup>146</sup> See, however, Gutiérrez, n. 76 above (pointing out a lack of attention to the intersectional dimensions of climate change in the legal arguments and decisions in this case).

<sup>147</sup> W. LaDuke, *All Our Relations: Native Struggles for Land and Life* (Haymarket Books, 2015), p. 4.

<sup>148</sup> Ibid.

<sup>149</sup> A. Ghosh, *The Nutmeg's Curse: Parables for a Planet in Crisis* (The University of Chicago Press, 2021), p. 238.

<sup>150</sup> Ibid.

<sup>151</sup> N. Estes, 'Traditional Leadership and the Oceti Sakowin: An Interview with Lewis Grassrope', in N. Estes & J. Dhillon (eds), *Standing with Standing Rock* (University of Minnesota Press, 2019), pp. 51–2.

<sup>152</sup> Ghosh, n. 149 above, pp. 239–40.

reinforce or challenge the dominant cultural assumptions underpinning the climate crisis. Stories grounded in relationality, interdependence, and continuity show promise in contesting individualistic worldviews that obscure collective stakes.

The cases discussed reveal techniques for communicating climate threats and impacts through human experiences and relationality. They also showed how linking climate harm to ongoing injustice exposes root causes. Indigenous victories won by underscoring spiritual connections with threatened ecosystems model relational approaches. Yet, crafting compelling representations of future generations who are necessarily absent from proceedings remains challenging. Victimhood tropes risk promoting divisions rather than solidarity across time. Climate storytelling must tread carefully to highlight inextricable connections while inspiring action.

As climate litigation proliferates worldwide, storytelling practices will shape public discourse on intergenerational obligations. This article suggests that relational frameworks can illuminate entanglements that dominant paradigms conceal. Stories awakening the moral imagination to our shared destiny across generations can catalyze climate action beyond reactive reforms. Just as scientists have found that complementing science with Indigenous traditional knowledge greatly enriches scientific understanding,<sup>153</sup> practitioners committed to climate justice can learn from Indigenous storytelling in co-designing cases with impact. This collaborative synergy holds profound potential for reimagining legal systems and actualizing collective caretaking across boundaries and generations.

In pursuing this path, it is essential to ensure that the outcomes of climate litigation genuinely advance the struggle for climate justice. This requires a careful assessment of how legal arguments and storytelling approaches are perceived, and the impact they exercise on various stakeholders and power structures. Given the diverse and sometimes conflicting interests involved in climate issues, the effectiveness of relational narratives in bringing about meaningful change should not be taken for granted. Persistent and shifting forms of racism and neo-colonialism (including contemporary populism) in many societies further enhance the risk of relational narratives facing resistance or failing in litigation.

Therefore, these approaches must navigate the delicate balance between ideological integrity and strategic pragmatism. This balancing act requires a nuanced understanding of the potential risks and benefits of different narrative strategies. In fact, one of those benefits for Indigenous peoples is the expression of their worldviews, law, and sovereignty in and through story, regardless of whether the case succeeds.<sup>154</sup> In this endeavour, the importance of integrity, including epistemological integrity, cannot be overstated. As Koenig and Sakulkarunaarree

<sup>153</sup> S. Starovoitov, 'Narrating Landscapes: How Indigenous Storytelling Can Unlock Our Environment's Past', *Glacierhub Blog*, 2 Sept. 2021, available at: <https://news.climate.columbia.edu/2021/09/02/narrating-landscapes-how-indigenous-storytelling-can-unlock-our-environments-past/#:~:text=Several%20tales%20from%20the%20Arikara,glacial%20lakes%20in%20Western%20Montana>.

<sup>154</sup> See Behrendt, n. 4 above, p. 178: 'A key strategy in this is the use of our storytelling as a methodology. Storytelling not only challenges or decolonizes institutions, it is also a way of reasserting Indigenous voice, perspective, and experience. Storytelling is an act of sovereignty that reinforces Indigenous identity, values and worldview'.

noted in connection with climate science, the justice system's role in ensuring that decision making is grounded in solid evidence and truth is a cornerstone of achieving real climate justice.<sup>155</sup> This commitment to truth is not just a moral imperative but also a strategic one, as it underpins the credibility and effectiveness of climate litigation. By rooting storytelling techniques in robust evidence and holistic understanding of the historical drivers, lived realities, and long-term impacts of climate disruption, climate litigators can strengthen their cases while fostering a legal and societal environment conducive to comprehensive and just responses. It is then up to judges – and potentially much larger audiences – to walk through the doors that stories have opened.

Many questions remain for future research. How can local climate stories invoking future generations inspire global solidarity? What narrative techniques build empathy across groups? What genres or metaphors enhance climate litigation resonance? The stakes could not be higher in this project of narrating a future worth fighting for.

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<sup>155</sup> A. Koenig & B. Sakulkarunaarree, 'Climate Candor: Ridding Climate Cases of Questionable Science', *OpenGlobalRights*, 5 Dec. 2023, available at: <https://www.openglobalrights.org/climate-candor-ridding-climate-cases-questionable-science>.

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