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'Greening the Gavel': The Potential of Climate Litigation in Climate Change Education



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7-8pm
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LIVE
WEBINAR



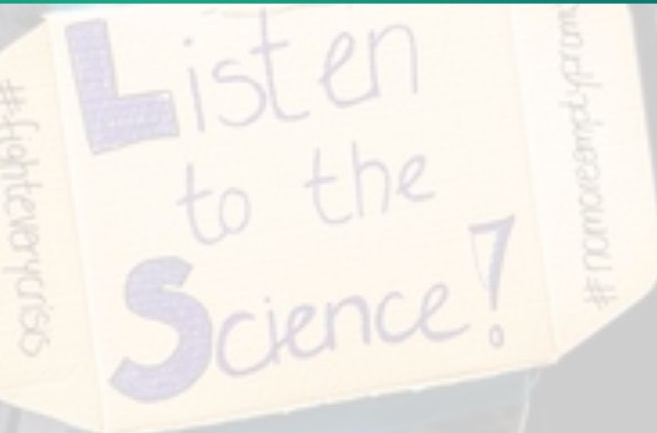
**ISABELLA LENIHAN-
IKIN**

Researcher,
University of Oxford
& Rhodes Scholar



TRAVIS FUCHS

Honorary Norham
Fellow, University of
Oxford



Positionality

Travis

- Settler of English and German ancestry
- Raised in land of Dish With One Spoon wampum & Two Row wampum
- Educated in marine biology & teaching; worked as 6-12 teacher, admin, lecturer
- Research in science and environmental teaching & learning
- Treaty land in Can (Between the Lakes Treaty Number 3), which has a rich history of the Hatiwendaronk, the Haudenosaunee, and the Anishinaabe, including the Mississaugas of the Credit First Nation.

Isabella

- Pākehā, Tangata Tiriti of Irish and Scottish whakapapa (descent)
- Raised and living on the whenua (land) of Ngāti Whātua o Ōrakei
- Educated in law, biomedical science, global health and geography
- Politicised as a school student through climate activism
- Completing DPhil in Clinical Medicine (exploring health impacts of climate change in Aotearoa New Zealand) on a Rhodes Scholarship at University of Oxford.

Climate litigation

- Sabin Centre (2024): cases where climate change law, policy or science is a material issue of law or fact.
- Growing area of law since 1980s, now over 2,600 cases (Setzer & Higham, 2021; Sabin Centre, 2024).
- Three waves:
 - Environmental and planning law (Pepper, 2021);
 - Human and constitutional rights (Pepper, 2021; Peel and Osofsky, 2018);
 - Consequences of climate change and climate risk (Pepper, 2021).
- New legal possibilities: evolving science, causation and obfuscating climate action (Franta, 2017; Wentz et al., 2023).









Climate litigation is educationally relevant

- **Central claim: Schools ought to ensure that youth are equipped to understand the complexity of climate change and feel empowered to respond through democratic processes, including litigation.**
 - Special vulnerability;
 - This specific vulnerability justifies a pedagogical approach to climate change that:
 - Takes seriously distribution of the harm impacted by collective inaction; and
 - Emphasizes forms of democratic participation in response.
 - Moral imperative;
 - Existing involvement in climate activism, including litigation;
 - Countering and challenging petro-pedagogy.

Climate Change Education Framework (Hargis and McKenzie, 2020)

Learning Dimension	Description	
Action-oriented	Including empowering, place-based and participatory learning outcomes.	
Justice-focused	Prioritising links to justice-related issues that uncover who benefits and is most affected by collective inaction	
Cognitive	Including teaching scientifically accurate information regarding climate change.	
Social and emotional	Including practices and content to understand and overcome despair, anxiety, and fear.	

Climate Change Education Framework (Hargis and McKenzie, 2020)

Learning Dimension	Description	Important	Familiar
Action-oriented	Including empowering, place-based and participatory learning outcomes.		
Justice-focused	Prioritising links to justice-related issues that uncover who benefits and is most affected by collective inaction		
Cognitive	Including teaching scientifically accurate information regarding climate change.		
Social and emotional	Including practices and content to understand and overcome despair, anxiety, and fear.		

Mathur v Ontario (CAN) (Wood, 2024)

Context

- 2016 Ontario Gov't introduced *Climate Change Mitigation Act* ('Mitigation Act')
- 2018 new Gov't enacted the *Cancellation Act*
- Unlike the Mitigation Act, it did not require targets to consider the Paris Agreement or have any scientific basis
- Target aimed far below international pacts



Issues

- 7 youth (12-24) legal challenge against gov'ts decision to weaken the climate targets
- Argue new target violates youth and future generations' rights to life and security of the person and equality under the Charter
- Sought declaration that plan violated Charter rights and orders that Ontario set a science-based target and revise plan



History

- Nov 2020, Canadian court recognised first time climate change could violate Charter rights
- Sept 2022, first youth-led case evaluated on substantive issues and factual evidence
- Dismissed 2022, appealed 2024, appeal held 2024, trial 2025

Climate litigation for climate change education

Learning Dimension	Broad connections	Mathur
Action-oriented	<ul style="list-style-type: none">• Understand litigation avenues open to youth for systemic change• Inherent limitations of courts	<ul style="list-style-type: none">• Intersection of youth and Indigeneity• Positive rights

Climate litigation for climate change education

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Social and emotional	<ul style="list-style-type: none">• Diverse perspectives needed to mount healthy climate response	<ul style="list-style-type: none">• Climate-conscious actors <i>and</i> realism

Break Out

Learning Dimension	Broad connections	Mathur
Action-oriented	<ul style="list-style-type: none">• Understand litigation avenues open to youth for systemic change• Inherent limitations of courts	<ul style="list-style-type: none">• Intersection of youth and Indigeneity• Positive rights
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Break Out

Instructions

- Follow the link to the editable slides in the chat, and select the slide corresponding to your group to work.
- One person in each group should share the slides to their screen and capture the discussion in the framework on the slide.
 - Refer to slides 14 - 17
- Answer these three questions in your group on the slide, and be prepared to share what was memorable about your group discussion, followed by Q/A.
 - What about this learning dimension and climate litigation resonated for you?
 - How do you see these connections unfolding in your educative context?
 - What are the limitations and challenges you should be aware of?

Action-oriented

Description	What about this learning dimension resonated for you?	How do you see these connections unfolding in your education context	What are the limitations and challenges you should be aware of?
<p>Including empowering, place-based and participatory learning outcomes.</p>	<p>Action really important for youth to see and experience and have the option to be part of, help us all feel more empowered and that something is happening. Helps to bridge crucial theoretical concepts that students need to understand to counter misinformation - having action-oriented pedagogy, participation from below, esp indigenous communities that have been excluded from climate processes (curricular, legislative) and are disempowered. A focus on action helps support meaningful action - empowering students beyond the classroom. Can be alot of cynicism among students because a) they have no idea what to do about it and b) also don't see action being built into systems</p>		

Justice-focused

Description	What about this learning dimension resonated for you?	How do you see these connections unfolding in your education context	What are the limitations and challenges you should be aware of?
<p>Prioritising links to justice-related issues that uncover who benefits and is most affected by collective inaction</p>	<p>I liked it because she knows it will resonate most with the kids - they get this.</p> <p>This area aligns with what the BC is asking teachers to deliver, this is something that all students can relate to an idea of justice and gives a more universal take</p> <p>I am working with frontline communities across the world to resist development so this ties in with that area of work</p> <p>There is little requirement to delivery anything about climate but they expected to understand justice issues. Engaging a class - justice is a good way.</p> <p>All students will experience this. A way in.</p>	<p>I a lot of education researchers are encouraging cross curricular, project based learning to bring realness to their work. Climate is a good space for this to happen. In his school he was debating how to do more on this given the frameworks they have.</p> <p>Considering combining with environmental studies. Less siloed into particular subjects.</p> <p>I feel this could be added into the citizenship curriculum. It would be a good move to teach legal literacy to use one of these examples. Law is seen as very prestigious by students. A good way to get them to engage with climate issues. Climate discussions make them feel uncomfortable normally. Law is associated with power and ambition. The science is unarguable. The science is being tested by law (my thought). Lots of opportunities if you are creative.</p>	<p>Time. Never enough to adapt resources and persuade people to use them. UK exam system and packed curriculum. People are worried about the requirement not to be political. This needs to be unpacked for teachers.</p> <p>Political situation in the US - you can't teach about climate change. Some school districts are refusing to comply</p>

Cognitive

Description	What about this learning dimension resonated for you?	How do you see these connections unfolding in your education context	What are the limitations and challenges you should be aware of?
<p>Including teaching scientifically accurate information regarding climate change.</p>	<ul style="list-style-type: none">• To what degree does this power the other dimensions. A baseline knowledge needed to engage in the other ones.• Works to address mis and dis information out there. Especially from fossil fuel majors.• Does climate litigation inherently rest here?• Can provide tangible steps to move forward.	<ul style="list-style-type: none">• PRE has inherent epistemological pluralism and this fits well into this dimension.<ul style="list-style-type: none">◦ Different world views, inclusive of religion• Even ontological conversations of relationality and how can that be forwarded.	<ul style="list-style-type: none">• Critical thinking. To what degree might solve these issues?• Our interventions, while well intentioned, often do worse.• What level of cognitive / quality information might get us into more trouble?

Social and Emotional

Description	What about this learning dimension resonated for you?	How do you see these connections unfolding in your education context	What are the limitations and challenges you should be aware of?
<p>Including practices and content to understand and overcome despair, anxiety, and fear.</p>	<ul style="list-style-type: none"> - Hickman et al bench-makred climate anxiety - How do our education spaces respond to the recognition of climate anxiety among young people. - The frame that is most helpful is that we are starting to see failure of political systems and unravelling of democratic instutions. How do we talk to young poeple about this reality? This confronts the reality of what our ed. System has been built upon. Massive transformation of education systems to deal with the complexity of CC, as well as other big global issues. - How we talk to young people about whats happening in the world, through the social/emotional issues - key to 	<ul style="list-style-type: none"> - Grad programme in climate change education, and did research on those courses on student outcomes. Got really clear on the outomes that we wanted to evaluate (knowledge, agency and urgency) - one that find really interesting is urgency - as students learn of the risk of inaction and the scale of action that is needed, the sense of urgency came compounded with all of the negative climate anxiety. As they came to know how systems were failing - this came with all kinds of emotions. This then links into agency - collectively and individually. Interviews with students were so rich. Also found that teachers have so much of their own climate 	<ul style="list-style-type: none"> - What is the proper way to facilitating unpacking climate anxiety? Schools ae generally not spaces were students want to be emotional. Also, is it appropriate for teachers to invite this of students? What are the services available? What is appropriate? - Youth affidavit writing? - Approaching it from an action POV, instead of navigating all the S/E dimensions

Sharing & Q/A

Go to each group's slide as they share what was memorable from their discussion

Closing

References

Hargis, K., & McKenzie, M. (2020). Responding to Climate Change Education: A Primer for K-12 Education. <https://sepn.ca/resources/report-responding-to-climate-change-education-a-primer-for-k-12-education/>

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Sabin Climate Change Litigation Database. (2024). About. Climate Change Litigation. <https://climatecasechart.com/about/>

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Peel, J. and Osofsky, H.M. (2020) 'Climate change litigation', Annual Review of Law and Social Science, 16(1), pp. 21–38.

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DIGEST

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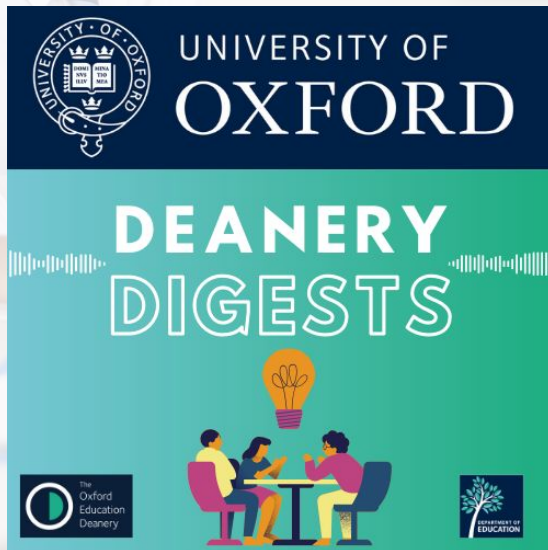
Based on three open-access reports: Ingram, J.; Stiff, J., Cadwallader S., Lee, G. & Kayton, H (2023) PISA 2022: National Report for England ; Ingram, J.; Stiff, J., Cadwallader S., Lee, G. & Kayton, H (2023) PISA 2022: National Report for Northern Ireland ; Ingram, J.; Stiff, J., Cadwallader S., Lee, G. & Kayton, H (2023) PISA 2022: National Report for Wales

DIGEST


Adapting Fostering Effective Early Learning (FEEL) Intervention To Improve Outcomes For Pre-School Children In Shenzhen, China

Based on: Huang, R., Siraj, I. & Melhuish, E. (2024). Promoting effective teaching and learning through a professional development program: a randomized controlled trial

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Sharma and Others v Minister for the Environment (Aus)

Context

- Eight young Australians and 86 year-old nun, Sister Brigid Arthur, brought a class action against Federal Minister for the Environment in Federal Court of Australia.



Issues

- Class action alleged Minister owed duty of care to young Australians to take reasonable care to avoid harm in response to proposed coal mine extension project.
- Plaintiff's sought an injunction, based on the alleged duty.



History

- 2021, Federal court held that duty of care existed
- 2022, overturned original finding in the Full Court of the Federal Court on the duty of care given that this duty did not cohere with the construction of the statute, Minister lacked control of the harm and the claimant class number was not determinable.

Students for Climate Action Solutions v Minister of Energy and Resources (NZ)

Context

- 2022, group of undergraduate law students filed a judicial review to challenge decision of then Minister of Energy and Resources to grant petroleum exploration permit under Crown Minerals Act ('CMA') 1991.



Issues

- Three bases for judicial review:
 - Failure of Minister to consider climate change as a mandatory consideration of granting the permit;
 - Unreasonableness (for same reason as above);
 - Failure of Minister to have proper regard for principles of Treaty of Waitangi.



History

- 2022, case failed in the High Court.
- 2024, appeal to Court of Appeal (also failed).
- Judicial review only relates to procedure of government decisions.
- The claim related to heightened scrutiny of climate cases remains unsettled.
- Court of Appeal held that broader assessment of Treaty principles not warranted under CMA.