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‘Carving space’ for comradeship? Para-legal performance and climate justice in the Court for Intergenerational Climate Crimes

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Abstract

This article explores how the medium of ‘para-legal’ performance art offers scope to experiment with legal conventions pertaining to climate change using the case study of the Court for Intergenerational Climate Crimes. Through a series of performative trials, staged in Framer Framed gallery in Amsterdam, Netherlands, the Court for Intergenerational Climate Crimes proposed comradeship as a legal concept to foster the emergence of intergenerational, intragenerational and interspecies solidarities. I argue that actors involved in the performance of the Court ‘carve space’ to realise these solidarities through distinct practices of spatial production and re-organisation. However, by engaging with interviewees’ accounts of the trial performances, I suggest that comradeship was expressed lopsidedly – with focus predominantly on the intragenerational inequalities implicated in climate change. Through critical reflection on the material and performative spatialities of the Court for Intergenerational Climate Crimes, I contribute to discussions surrounding the political capacities of art in times of climate breakdown, and emerging legal possibilities for climate justice.

Keywords

Climate change, justice, performance art, environmental activism, comradeship

Introduction

The Netherlands is deeply implicated in the story of climate change and its myriad sociopolitical injustices. The country played a notable historical role in the development of commercial oil production and supply chains (Harnawan, 2023), industrial agricultural technologies (Maat, 2001),

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and in the birth of modern capitalism itself (Prak and Luiten van Zanden, 2023). These processes, inseparable from the Netherlands' violent colonial projects across Asia, Africa, and the Americas (cf Oostindie, 2021), brought forth irreparable forms of socio-ecological transformation and degradation, the effects of which continue to reverberate today (Nixon, 2011).

The Court for Intergenerational Climate Crimes (CICC) represents a form of 'para-legal' performance art (Lütticken, 2018), which creatively appropriates and subverts legal norms in order to illustrate how these injustices were enabled by the Dutch legal system, the framework of rules, procedures and institutions used by the Netherlands to interpret and enforce the rule of law (WEX, 2023). The original iteration of the project constituted a series of performative tribunals staged in Framer Framed gallery in Amsterdam, in which the Dutch state, alongside corporations Unilever, ING Bank, and Airbus, were prosecuted for committing 'Intergenerational Climate Crimes'. The Intergenerational Climate Crimes act drawn up for the CICC explains that such a crime is committed 'when a group of persons acting in the name of a legal entity, under laws established by themselves, engage in acts that negatively impact the conditions necessary for the reproduction of any species' (Court for Intergenerational Climate Crimes, 2021a). By highlighting these various 'crimes' enabled by the Dutch legal system, the CICC hopes to inspire amongst participants an ethic of 'comradeship', a sense solidarity which expands across national political jurisdictions and over time and species boundaries.

CICC co-founder and artist Jonas Staal stated that the project is driven by a desire to redefine "what climate justice would look and feel like, what it means to collectively work for it, and who stands alongside us in that process" (Bailey, 2021). This is pertinent in the context of ongoing discussions about the capacities of existing legal systems across the globe to support fair climate action (Newell et al., 2021; Peel and Lin, 2019; Setzer and Higham, 2023). There have been a host of important recent legal cases which are illustrative of the predominantly rights-based tools available to climate justice advocates in contesting ongoing government climate inaction (Pouikli, 2022), and projects of extraction (Putzer et al., 2022). However, simultaneously, there remain a host of procedural and institutional issues, conditioned by multiscalar political and economic relations, which are encoded into most national legal systems and obstruct possibilities for more substantial and transformative climate justice action (D'Souza, 2018; Hamilton, 2022).

In this paper, I use the CICC as a case study to critically reflect on the capacities of 'para-legal' performance art as a tool to support global efforts towards climate justice. I frame the project's imaginative potential through the lens of prefigurative politics, "an inherently spatial and performative genre of political activism" (Jeffrey and Dyson, 2021: 643) in which actors endeavour to propagate desirable futures in the present (Pickerill and Chatterton, 2006). I develop the notion of 'carving space' to hone in on the material and performative practices through which the CICC's ideal of comradeship was realised in the trial environment.

In what follows, I review literature on climate justice and its relationship to different legal systems. Subsequently, I frame the CICC as an example of 'para-legal' performance art, highlighting the value of 'para-legal' performance art as a tool to explore questions of climate justice. Drawing on empirical material comprising interviews with 11 people involved in the CICC, as well as literatures related to the project, I explore the notion of comradeship, and how this ideal was pursued through material practices of 'carving space'. My conclusion recontextualises this analysis in the context of wider scholarly debates surrounding emerging legal possibilities for climate justice, and the uses of art as a political tool in times of climate emergency.

Climate justice

Climate justice is a broad concept utilised in different ways by institutional, activist and academic actors to highlight inequalities related to climate change (Jafry et al., 2019). It involves "carefully

analyzing who is excluded or marginalized by climate change processes as well as any adaptation or mitigation interventions", focusing specifically on "who benefits, who loses out, in what ways, where, and why" (Sultana, 2022a: 118-9). Informed by this critical approach, scholars have drawn attention to how climate change, and proposed mitigation and adaptation efforts, compound and exacerbate existing socio-economic (Huber, 2022), racial (Williams, 2021), gender (Gonda, 2019), health (Connon and Hall, 2021), and geographic inequalities (Timmons Roberts and Parks, 2006).

It has been argued convincingly by climate justice scholars that marginalised communities, including Indigenous, low-income, and migrant groups, for example, face a 'triple injustice' with regard to climate breakdown (Timmons Roberts and Parks, 2006; Pellow and Anguelovski, 2020). First they bear little, if any, historical responsibility for climate change, with populations in the global South, comprising around 80% of the more than 8 billion people on Earth, responsible for only 8% of excess carbon dioxide emissions (Hickel, 2020). Second, marginalised communities are disproportionately likely to live in peripheral areas which are more vulnerable to extreme climatic events, because of underdevelopment in key infrastructures, as was the case in Hurricane Katrina (Bullard and Wright, 2009). Third, marginalised communities often lack the socio-economic and political resources required to effectively influence mitigation and adaptation interventions (Hallegatte and Rozenberg, 2017). Because of this, such interventions frequently reproduce prevailing inequalities, with many urban climate adaptation strategies causing 'climate apartheid' by insulating wealthy urban elites from the worst effects of climate change (Rice et al., 2021), while displacing established working-class communities through processes of 'eco-gentrification' (Rice et al., 2019).

In addition to these various spatial and intragenerational injustices, climate change throws up a host of complex inequalities which persist between generations. Environmental practices in the present produce socioecological burdens which will almost solely impact future generations, rather than those in the here-and-now (Gardiner, 2011; Meijers, 2023). The unfairness of this material fact has been made forcefully by a host of youth-led climate movement organisations that demand to be included in climate policy decision-making practices owing to their capacities as "heirs to/of the future" (Theodorou et al., 2023: 61). By the same token, present intragenerational climate inequalities are tied to historical events and processes stemming back hundreds of years (Skillington, 2019), specifically the violent and extractive projects of capitalism and colonialism that enabled the rise of the global fossil fuel economy (Chakrabarty, 2017; Sultana, 2022b; Yusoff, 2018). These historical processes continue to reverberate through their 'forcing' effects on present and future ecological circumstances (Hansen et al., 2017; Sultana, 2022b). It is for this reason that reparation, the redistribution of political and economic resources from colonising to colonised powers, is frequently envisioned as a vital component of both intragenerational and intergenerational climate justice (Táíwò, 2022). In all instances, then, intragenerational climate-related inequalities are temporally dislocated, simultaneously reaching backwards and forwards in time.

Alongside questions of spatial and temporal justice, there are also increasing calls from activists and more-than-human scholars to attend issues of interspecies inequality in conceptualisations of climate justice (Tschakert et al., 2020; Celermajer, 2021). Climate change is framed in such calls as the product of concomitant liberal 'modern' logics of anthropocentrism and the human/nature binary (Gregory, 2001), which render non-human lives expendable (Tschakert et al., 2020; Verlie, 2022). Advocates of a multispecies approach to climate justice draw from relational, posthumanist and new materialist ontologies to foreground the relational interactions on which all life is contingent, situating climate justice as a project of moral and ethical cross-species repair (Celermajer, 2021; Verlie, 2022). A crucial component of this lies in 'seeing' (Schlosberg, 2016), and 'hearing' (Neimanis, 2019) a plurality of non-human lifeforms as lively political actors, whose needs should be accounted for in decision-making around climate issues. As such, multispecies approaches to

climate justice are envisioned by Jones (2019: 485-6) to constitute "a politics for composing a common world that considers the needs and livelihoods of a diversity of human and nonhuman life".

Legal possibilities for climate justice

Over the past 10 years, there has been a concerted attempt by climate advocates to pursue climate justice through common, civil and public legal action, with over 1200 climate litigation cases filed worldwide since 2015 (Setzer and Higham, 2023). While the historical majority of these cases have been filed in the United States, there has been a noticeable uptick in this period in both Europe and across the global South (Setzer and Benjamin, 2020). In the wake of the 2015 Paris Conference of Parties agreement, which urged governments to consider human rights obligations when crafting national climate targets (Pauw et al., 2019), there has been a concerted effort on the part of climate justice advocates to build rights-based forms of litigation cases (Beauregard et al., 2021; Peel and Osofsky, 2018). Rights-based litigation cases typically leverage human rights treaties and laws, which establish specific civil, political, social, economic and cultural protections to which all people should be entitled, in efforts to protect distinct sociocultural and geographical communities against the negative effects of climate change (Atapattu, 2018; Adelman and Lewis, 2018). For example, the UN Human Rights Committee recently ruled that Australia had violated a group of Torres Strait Islanders rights to culture and to privacy, family and home because of inadequate climate adaptation measures (Climate Case Chart, 2022). While scholars have raised concerns about the inability of human rights law to address the complex spatial and temporal dynamics implicated in climate change (Skillington, 2017; Lewis, 2018), human rights-based approaches are envisioned to be useful for climate justice because they connect climate change to other forms of oppression (Peel and Osofsky, 2018).

Relatedly, there is also a nascent legal movement for climate justice oriented around establishing 'Rights of Nature' (Boyd, 2017; Chapron et al., 2019; Putzer et al., 2022). 'Rights of Nature' refers to a legal philosophy premised on the reorganisation and operation of particular legal mechanisms and instruments, which seeks to foster institutional and broader public recognition of natural ecosystems as "subjects with inherent rights" (Kauffman and Martin, 2021: 2). Both entire ecosystems, as illustrated in the case of the Los Cedros Cloud Forest in Ecuador (cf Guayasamin, 2021), and particular natural entities, such as the Whanganui River in Aotearoa/New Zealand (cf Pecharroman, 2018), can be the subjects of rights claims (O'Donnell et al., 2020). 'Rights of Nature' cases have proved particularly popular in the Americas, where they are regularly connected to Indigenous struggles around land use and resource access (Laastad, 2020; Putzer et al., 2022; Schweitzer et al., 2024). While legislation around 'Rights of Nature' requires active will from civil society actors and government institutions to be effective (Schweitzer et al., 2014), the movement is envisioned as a valuable means for climate justice activists in contesting extractive projects using existing judicial mechanisms (Valladares and Boelens, 2017).

However, even as these useful legal tools grow in popularity and stature, legal systems around the world are structured to disproportionately favour the continued extraction of fossil fuels by providing beneficial subsidies and regulations for fossil fuel corporations (Hamilton, 2022). This uneven organisation of rights and regulations, or 'fossil law', directly inhibits the realisation of climate justice and instead supports the further entrenchment of existing path dependencies (Hamilton, 2022). There are three pervasive legal concepts in particular which foreclose possibilities for climate justice by protecting extractive projects. First, private property rights give property owners dominion over their land and thereby grant legal protection to the extractive activities of fossil fuel corporations, despite the effects of these activities having severe repercussions far beyond the property they own (Hamilton, 2022). These are regularly invoked in 'stranded assets' cases brought by fossil companies against government climate policies (Setzer and

Higham, 2023). Second, corporate personhood grants fossil fuel corporations similar rights to 'natural persons', positioning the interests of corporations on a shared or equal basis with that of real people (D'Souza, 2018). Due to the economic and political power of these entities, their rights are frequently prioritised over those of real people, particularly Indigenous and other marginalised groups' rights to determination, land, and health (Potter, 2011). Third, rules of standing require that plaintiffs seeking legal remedy demonstrate that their claims have sufficient connection to the party or action they are claiming against (Hamilton, 2022). This obfuscates the pursuit of climate justice because it is difficult for plaintiffs to prove that the harm they have suffered is linked specifically to the actions of one particular state, or corporation (Skillington, 2019).

In addition to these structural protections for the fossil fuel industry, fossil law also prohibits judicial action against extractive projects through rules of precedent and process. Precedent refers to the need to corroborate cases and verdicts in alignment with past court decisions. Given that modern legal systems have historically enabled and protected projects of colonial capitalism (Malm, 2016; Tigar, 2000), precedent heavily skews court outcomes in favour of state and corporate actors. Process refers to the imposition of bureaucratic standards for the framing and filing of cases. The incredibly technical nature of legal instruments related to climate change means that it is relatively straightforward for corporations and states, and their large legal teams, to block activist-led judicial action through exploiting legal technicalities (Hamilton, 2022). Simultaneously, fossil law enables the violent persecution of climate activists taking action through more disruptive means (Dunlap and Brook, 2022). The expansion of extractive industries frequently breaks Indigenous land treaty and self-determination rights with little consequence (Potter, 2011). However, if climate justice activists from those communities infringe on the property rights of corporate actors to disrupt fossil fuel infrastructure, they are commonly violently assaulted by police forces (Dunlap and Brook, 2022), as seen at Standing Rock (Estes, 2019).

While there are a host of legal tools available to climate justice activists in contesting and pushing for transformation around climate issues then, legal systems are commonly set up in ways which favour the entrenchment of existing injustices related to the extractive industries. Pursuing climate justice frequently therefore involves using "yesterday's weapons to fight today's war" (Hamilton, 2022: 35; see also M'Gonigle and Takeda, 2013), operating within political constraints to criticise and improve the existing legal system (Davies, 2017; De Sousa Santos, 2017).

Methodology: The court for intergenerational climate crimes and 'para-legal' performance art

The Court for Intergenerational Climes Crimes (CICC) presents a unique opportunity to critically engage with climate justice and its relation to contemporary legal systems as it constitutes a form of 'para-legal' performance art oriented around ideas of climate justice. Performance art, in which the live embodied actions of artists and participants are framed as art (Goldberg, 1979), is envisioned by a host of cultural studies scholars as a vital immersive and experiential tool in the context of climate change (Bell and Desai, 2011; Davis and Turner, 2015; Galafassi, 2018; Landau and Toland, 2022; Woynarski, 2020). Performance art is considered to possess unique prefigurative and affective capacities which set it apart from more straightforwardly representational and interventionist forms of climate art (Giannachi, 2012). Performance art is prefigurative in that it instigates thought and action around the possibility of alternative futures (Bell and Desai, 2011; Woynarski, 2020), premised on, for example, more equitable relationships with more-than-human lifeforms (Arons & May, 2012). Meanwhile, through experimenting with staging, materials, dramatic devices, and audience participation, performance art cultivates affective moods, sensations and atmospheres that prompt reflection on what can be heard, felt and perceived as political (Landau and Toland, 2022; Tolia-Kelly, 2019). Together, these render performance art as a tool through which to equip

participants with a suite of practical, embodied techniques for engaging with climate change in ways which are personally and collectively transformative (Woynarski, 2020).

'Para-legal' performance art is a niche subset of performance art which involves the creative adoption and subversion of established legal imaginaries, institutions and processes (Lütticken, 2018). While they lack formal legal standing, 'para-legal' performances are frequently used by artists and activists to highlight injustices encoded into established legal systems and platform counter-knowledges of complex social issues (Loick, 2023; Lütticken, 2018). For instance, theatre director Milo Rau has utilised theatre spaces to stage trials around ongoing civil war in the Democratic Republic of Congo (Rau, 2023). The use of the trial form is significant because trials are events in which conceptions of justice and injustice are made tangible and material, and can thus be resisted and reinscribed (Clarkson, 2013; Jeffrey, 2019; Mulcahy, 2011). While the past 15 to 20 years have witnessed a substantial increase in engagement with climate change through performing arts (Galafassi et al., 2018; Nurmis, 2016), there has been little explicit engagement with issues of climate justice more specifically (Quiroz et al., 2022; Sanz and Rodriguez-Labajos, 2021). As such, the use of 'para-legal' performance in the CICC is significant.

Para-legal performance art, as manifested in the case of the CICC, is situated here as a means by which to experiment with legal processes which support the realisation of climate justice. In doing so, I acknowledge the political tensions inherent in artistic forms of practice – whereby the labelling and comprehension of particular practices as art may invite depoliticised forms of consumption which are disconnected from the political (Bonnett, 1992; Fuller and Weizman, 2021; Tolia-Kelly, 2019).

To explore the climate justice imaginaries pursued through the CICC, I conducted interviews, lasting between 30 and 90 minutes, with 11 people who participated in both designing and performing the CICC, including the project co-founders and architect, staff at Framer Framed, judges, witnesses, and jury members. Prior to the commencement of the interview, interviewees gave consent for me to use their real names in this paper. The fieldwork was conducted in two phases, the first during the trial series, from September 2021 to February 2022, when recordings of the trials and the CICC literatures were studied, and the second from May to September 2022, when the interviews were conducted and analysed. This empirical data is also supplemented by online recordings of the trials, and literature related to the project. The interviewees selected were intended to cover various roles in the project team, with a view to gaining insight into the purpose of the CICC and different experiences of the trials. Semi-structured interviews included questions on how interviewees came to be involved in the CICC, their understanding of what the CICC was attempting to do, their understanding of their role during the trials, and their experience of the trials. The empirical data, including the interview transcripts, notes on the recordings, and CICC literature, was coded both deductively and inductively, with the themes generated through analysis of the CICC recordings and literature informing an analytical framework for the interview transcripts, while allowing room for new themes to emerge. Themes which guide the following discussion include comradeship, space, and performance.

Comradely climate justice

Inductive analysis of my empirical material indicates that the notion of comradeship plays a guiding role in the para-legal performance of the CICC. The term comrade has a long, well-storied association with socialist and communist political movements, who utilise the term to invoke a political relation that "highlights the sameness of those on the same side – no matter their differences" in order to "collectivize and direct action in light of a shared vision for the future" (Dean, 2019: 3). This attentiveness to difference means that comradeship is firmly oriented towards the cultivation of plurality in collective political struggle, an attempt to step beyond parochial and vague

forms of identity politics. The desire for plurality indicated in comradeship is markedly different from the notion of citizenship, around which trial processes are conventionally structured (Jeffrey, 2020). The framing of court actors as citizens, representatives of a defined political jurisdiction, invokes a set of political and ethical obligations towards the 'imagined communities' constitutive of a polity, and entails particular liberal, democratic assumptions about how those obligations should be fulfilled, premised on a contractual relationship between individuals and the state (Staeheli, 2011). This shift which takes place in the CICC, from citizens to comrades, matters because it opens up political obligations beyond the scale of the 'imagined community' of the nation-state, and, in turn, offers alternative suggestions for how those obligations might be fulfilled.

Through the notion of comradeship, the CICC opens up political obligations beyond the nation state in three key dimensions. First, the term is used to speak to the importance of cultivating plural intragenerational solidarities in the struggle against climate change. The intragenerational focus of comradeship in the CICC is illustrated most clearly through the geographical diversity of the witnesses included in each trial. The three witnesses in each case were representatives of organisations including activist groups, community networks, research centres and indigenous federations, based in sites including but not limited to the Netherlands, India, Mongolia, the Democratic Republic of Congo, Peru and Indonesia (Court for Intergenerational Climate Crimes, 2021b). Through a mixture of pre-recorded videos and personal testimonies, witnesses provided detailed localised accounts of the 'climate crimes' unfolding in their communities. By connecting these geographically disparate witnesses together through the term 'comrade', and through the specific examples of the Dutch State, Unilever, ING Bank and Airbus, the Court for Intergenerational Climate Crimes illustrates how struggles against extractive practices are connected across space through uneven political and economic relations.

Second, comradeship is used in the CICC to instigate the emergence of political and ethical solidarities across generations. This intergenerational dimension of comradeship is articulated most emphatically through the presence of ammonite fossils and oil in the court space, as illustrated in Figure 1. Together, these features are intended to:

> emphasise the reality of the "fossil" in fossil fuels: millions of years of aggregated animals and plants turned oil, that racial capitalism burns to accelerate our movement in the present and consequently undoes the possibility of liveable futures. (Court for Intergenerational Climate Crimes, 2021b: 9)

The fossils and oil thus serve to draw out the 'deep' temporalities which are implicated in discussions of climate justice in the present (Yusoff, 2018). Naming the fossils as 'comrades' in addition to and alongside the persons assembled in the court space stretches the bounds of solidarity beyond most liberal humanist conceptions of 'past' generations (Gardiner, 2011; Meijers, 2023). In this sense, comradeship gestures towards the colonial origins of the global fossil economy, and the role of the present in acknowledging and addressing violence across time (Sultana, 2022b; Táíwò, 2022).

Third, comradeship is intended to elicit solidarity across species boundaries in the CICC. This interspecies dimension of comradeship is expressed through the banners adorning the court space, which depict extinct plant and animal species as 'comrades' (see Figure 1). Each creature present in the exhibition space was selected on the basis of having been made extinct through processes of colonial capitalism (Court for Intergenerational Climate Crimes, 2021c). The 'Comrades against Extinction' (Court for Intergenational Climate Crimes, 2021d) booklet which accompanied the CICC featured more detailed information about the extinction of the plant and animal species depicted, including the place in which they were last sighted, alongside a brief synopsis of the cause of their extinction, and their International Union for Conservation of Nature (IUCN) taxon identification number. These more detailed descriptions of extinction sit alongside a raft of similarly

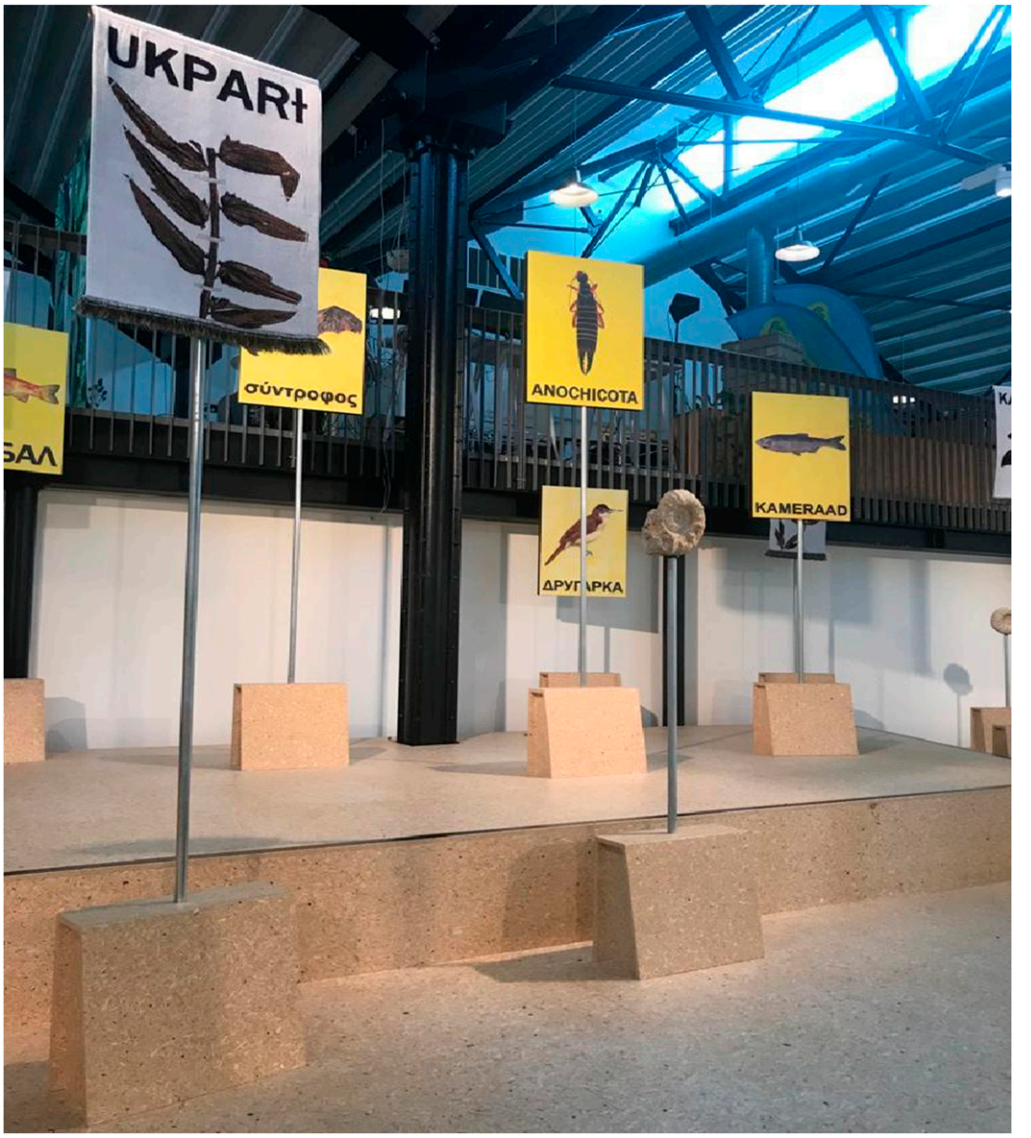

Figure 1. More-than-human comrades in the CICC, Framer Framed Gallery, Amsterdam (Photo credits: Author).

extinct plant and animal species from the same biogeographical region, which has the effect of highlighting the scale of extinction, while also gesturing towards the breadth of extinction stories which go untold. Naming these beings as comrades, in one of a number of languages, has the effect of rendering more-than-human lifeforms as subjects of justice who function simultaneously as "evidence of past intergenerational climate crimes" and as witnesses "to the collective effort of the CICC to contribute to intergenerational climate justice in the present and future" (Court for Intergenerational Climate Crimes, 2021c: 7).

To fulfil these intragenerational, intergenerational and interspecies obligations, the concept of comradeship proposes a commitment to projects of political struggle in solidarity with

those wronged by 'intergenerational climate crimes'. During the inauguration of the court, CICC co-founder Radha D'Souza framed the development of this solidaristic commitment as a form of repair, in this instance in relation to the interspecies dimension of comradeship:

> In this exhibition, we try to restore that relationship with all non-human beings and we do that by remembering the species made extinct by European colonisation, by calling all these extinct species our comrades and our ancestors, [...] we want to recognise them as such so that we can start rebuilding the broken relationship. (Court for Intergenerational Climate Crimes, 2021e)

Comradeship thus proposes a reparative vision of climate justice, based on the recognition of harm experienced by others across space, across time and across species. By recognising this harm, and situating participants in the Netherlands alongside both those engaged in active struggle against intergenerational climate crimes and those extinct fossil, plant and animal 'comrades', the CICC explicitly addresses the historical legacies of colonial capitalism implicated in climate change. Sensibilities of repair imply a markedly different set of moral and ethical values to those of colonial capitalism, marked as they are by imperatives of continual growth and the systematic destruction of 'other' ways of living, thinking and feeling (Whyte, 2019).

Carving out space for comradeship

In the CICC, comradeship names a reparative form of intragenerational, intergenerational and interspecies solidarity. Crucially, such solidarities are emergent in and through the production of shared spaces for assembly (Dean, 2019). Sharing a space with others is envisioned to generate an intensity of feeling and expectation amongst gathered bodies (Dean, 2019). This spatial quality of comradeship is present in its etymology, with the word 'comrade' being derived from the word 'camera', the Latin term to denote a room, chamber or vault (Dean, 2019). In this section, I hone in on the spatial dimensions of comradeship in the CICC through the notion of 'carving space'. I use this concept to explore the material and performative practices through which the CICC sought to animate solidarities during the trial process. In attempting to bring comradeship into being, practices of 'carving space' are prefigurative, they "enact a vision of change – through organisation, design, architecture, bodies, or something as simple as a gesture or demeanour – and promote this as indicative of an imminent or more distant 'future'" (Jeffrey and Dyson, 2021: 643). As such, the crystallisation of intragenerational, intergenerational and interspecies solidarities in the CICC – framed in the project as key features of a more just legal system – is emergent in and through the production of the court space.

Paul Kuipers, who designed the court space in collaboration with CICC co-founder Jonas Staal, explained how the installation was planned with goals of connection between attendees in mind:

> I think that the basic thing is how do you bring the visitor, the spectator, into what's going on. So that means, for instance, that we try to tackle notions of hierarchy [...] that's something we wanted to solve so that you feel part of this whole ecology of people and animals and also the fossils.

These goals of connection are particularly striking when considered in relation to conventional courtrooms, which are defined by strict spatial divisions, including the use of raised and lowered seating (Rosenbloom, 1997), as well as partitions and barriers (Mulcahy, 2011), which reinscribe power relations between actors involved in legal proceedings (Carlen, 2018; Jeffrey, 2019). Rejecting these hierarchical forms of spatial organisation, as shown in Figure 2, the CICC takes the form of "a fragmented wooden construction, that is modelled as a landscape within the exhibition

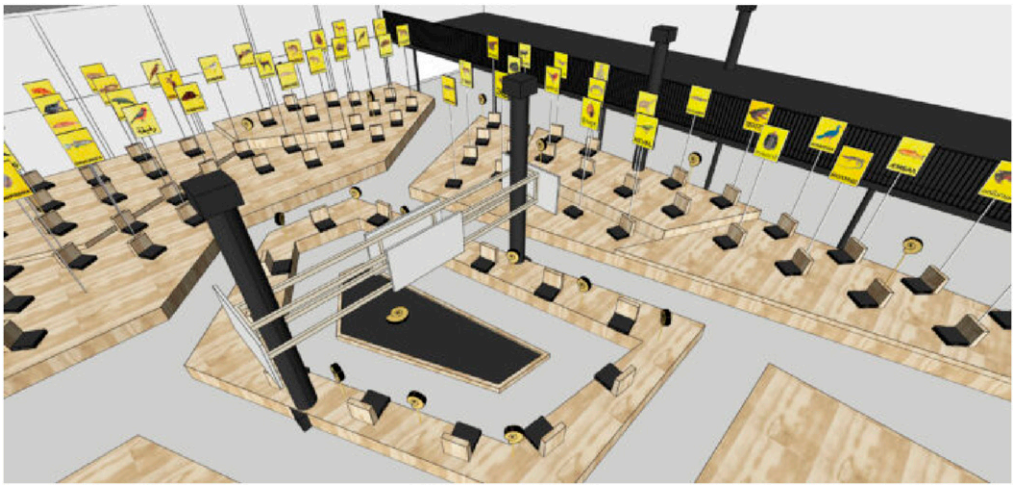

Figure 2. CICC Seating design (Maum, 2021).

space… It manifests as a curve of different heights" (Court for Intergenerational Climate Crimes, 2021x: 9).

The material installation carves space to elicit the myriad intragenerational, intergenerational and interspecies solidarities constitutive of comradeship in its generation of "intimacies", in the words of Paul Kuipers, the ability to "look each other in the eye and have a conversation". These intra-generational intimacies are expressed through the physical act of gathering facilitated by the court space, as articulated here by CICC co-founder Jonas Staal:

> The public hearings gather a very interdisciplinary but very specific group of people from different fields of climate activism […] it creates a very interesting patchwork of people and there are not so many places for these kinds of interdisciplinary intersectional gatherings around the issue.

While Jonas's comments focus specifically on the "patchwork of people" physically and virtually assembled in the court space, the intergenerational and interspecies dimensions of comradeship are similarly present through the fossils and banners incorporated into the court infrastructure. Through their seats, attendees were physically united with the fossils and extinct plant and animal species, framed as lively subjects worthy of justice. This physicality, or "intimacy", was intended to make audience members feel part of the "ancestral ecology" of creatures assembled in the court space (Court for Intergenerational Climate Crimes, 2021a).

Many interviewees attested to the affective resonance of the intragenerational solidarities which emerged through the trials, as exemplified here in comments from Cas Bool, who attended each trial as a jury member:

> Going from a very abstract analysis of power structures down to a specific site with individual people living through the experience and testifying about it, making the connection between an abstract analysis and [a] lived-through experience was, for me, very powerful. And I think that was also quite emotional in some moments.

Similarly, Valentina Azarova, an expert witness on the Airbus case, found the CICC "rupturing" because it afforded participants space for connection "with people who are really resisting for their lives". Avarova's focus here on the importance of producing and maintaining spaces for connection

is illustrative of the spatial dimensions of comradeship captured through the notion of carving space. There were also comments from interviewees who attested to the intergenerational and interspecies solidarities emergent in the material court space, as shown here in remarks from Nicholas Hildyard, a judge during the trial series:

> [T]hey were a constant reminder of a relationship that should be there but has been shredded or eroded or frayed through centuries of capitalism. [It was] very powerful. And the fact that they were all called 'comrade', I think it was a very powerful, artistic way of bringing out that relationship.

As such, the inclusion of the fossilised more-than-human lifeforms in the courtroom architecture plays a vital function in the CICC's attempts to carve space for interspecies forms of comradeship because they act as constant material reminders of the expanded intergenerational and interspecies obligations proposed through comradeship.

However, interviewees tended to focus much more prominently on the intragenerational dimensions of comradeship than these intergenerational and interspecies components of comradeship. I suggest here that this is because there was a lack of attentiveness to how to bring out these latter two elements in the performance of the trials. In conventional court processes, when performing as 'citizens', defendants, witnesses, judges, jury members, and public onlookers are given strict instructions about how to perform in court and the roles they are expected to fulfil (Mulcahy, 2011). For example, jury members are carefully selected and agreed upon by legal teams and informed by members of the court about how to behave during testimonies and court proceedings, and how to deliberate in order to come to a decision (Jeffrey, 2020). By contrast, in the CICC, participants were given little instruction on how to perform as comrades. At the beginning of each trial session, audience participants-*cum*-jury members were given the following guidance by Radha D'Souza, in her role as lead judge:

> [Y]ou are here, present in this court for intergenerational climate crimes, in your capacity as ancestors of future generations, your role therefore in assessing the charges brought by the complainants on behalf of comrades past, present and future, is a very serious one. It is your duty, therefore, to pay very careful attention to the evidence you are about to hear and to assess it, first and foremost, in the interest of future generations of all species. (Court for Intergenerational Climate Crimes, 2021f)

Performing as a comrade is envisioned here to involve an alternative form of attentiveness to court proceedings, involving a process of active listening, or hearing, which requires jury members to continually appraise evidentiary materials in the context of this sense of expanded temporal and cross-species collectivity.

However, outside of this, the CICC provided no direction to participants as to how to cultivate and maintain this attentiveness. This left the public audience-*cum*-jury members acting according to their own interpretation of what it means to listen and act as a 'comrade', manifesting in some performances from witnesses which were argued by Valentina Azarova, an expert witness on the Airbus case, to fail to approach the CICC in a substantively different way from more conventional trial processes:

> [W]e weren't really all on the same page in relation to what was taking place, right? [One group] brought in on the Airbus case sort of treated it as if they were arguing on any other [conference on international justice] panel that I've seen them on. So there wasn't this sort of cognitive shift in relation to the forms of justice and accountability that we were there to protest the absence of.

This is illustrative of a lack of attentiveness to the pedagogical element of comradeship – how people were taught and directed on how to think, feel and act in the CICC.

For instance, Sharon Venne, a Cree law professor and legal practitioner who acted as a judge during the hearings, stated that she approached the CICC in the same way as she would a regular court:

> I never thought it was a performance. It was a court. [laughing] Unlike any other court you've probably seen, but I think that the structure [of how the court hearing looks] is not as important as what you're hearing.

These comments reflect a wider sense of discomfort amongst participants with the performative aspects of the CICC, which are central to its ability to carve space for the emergence of intergenerational and interspecies forms of comradeship. This discomfort with the performative component of the CICC can also be seen in interactions between Kees Stad, a case researcher for the trials, and members of the activist organisations involved as witnesses. Kees describes how activists were "very suspicious" of the "artistic, performance kind of thing" produced in the CICC, which he attempted to negotiate by stressing that the CICC represented a form of "political art", which gave those groups "an attentive audience, part of whom will maybe participate or become a supporter of your group".

Conclusion

The 'para-legal' performance of the Court for Intergenerational Climate Crimes (CICC) is structured around the idea of comradeship – a pluralistic intragenerational, intergenerational and interspecies set of solidarities in the face of ecological harm. In this article, I have used the concept of 'carving space' to explore how these solidarities constitutive of comradeship were expressed through the production of the material court space. In particular, I focused on the seating design, the incorporation of fossils, representations of extinct plant and animal species into the courtroom architecture, and the courtroom performances and procedures associated with these. Together, I argue that these features are suggestive of the importance the CICC places on generating physical proximity and intimacy with 'others' in efforts to elicit performances of comradeship (Dean, 2019). However, when considered together with interviewees' accounts of the trial performances, it is apparent that the comradeship emergent in the CICC is lopsided – with participants focusing predominantly on the intragenerational dimensions implicated in the project. I speculate that this development is rooted in difficulties to meaningfully include the fossil, animal and plant actors, and the intergenerational and interspecies solidarities of which they are representative, into the performance of the trials. These difficulties are illuminated by some interviewees' sense of discomfort with the artistic and performative dimensions of the project through which these dimensions of comradeship were expressed.

Recontextualising these insights in the wider context of emerging legal possibilities towards climate justice, two clear points emerge. First, the ideal of comradeship proposed in the CICC offers pause for thought regarding the goals and efficacy of present trends in climate litigation. As established previously, climate litigation is dominated by human rights frameworks which are somewhat limited in their capacities to attend to intragenerational, intergenerational and interspecies forms of injustice (Skillington, 2017; Adelman and Lewis, 2018). Not only does comradeship attempt to draw out these myriad dimensions of justice implicated in climate change, but it shifts attention towards the projects of political struggle required to actually address them (Sultana, 2022b; Whyte, 2019). Furthermore, comradeship sets out to accomplish this in a way that acknowledges and accounts for a plurality of interlinked struggles over time and space. While the vision of

comradeship expressed in the CICC is testament to the challenges entailed in recognising subjects of intragenerational, intergenerational and interspecies forms of climate injustice simultaneously and equally, it remains a useful exercise in prefiguring a legal tool which is, fundamentally, reparative.

Second, this case study is illustrative of promises and pitfalls associated with 'para-legal' performance art in endeavours to rethink ideas of climate justice. As a mode of critique, 'para-legal' performance is defined by its blurriness – it is not quite art nor legal practice (Fuller and Weizman, 2021). On one hand, this not-quite-ness is freeing. It enables people to think big about the various statutes, procedures, rules and institutions constitutive of legal systems, while not being bound by those structures. On the other, this not-quite-ness can be politically questionable, as summarised by CICC co-director Jonas Staal here:

> [W]hat structures or alliances can be proposed to turn imagined justice into a reality? Because if we only invoke the possibility of justice but never deliver it, it becomes a very poisonous imaginary. (Staal in Bailey, 2021)

Taking this blurriness into account paints a nuanced and complex picture of 'para-legal' performance as a tool to aid thinking around climate justice. The fact remains that the labour of imagination is sorely needed as legal practitioners and activists wrangle with imperfect and outdated legal instruments and environments which frequently lack the capacity to contend with the multifaceted dimensions of harm and violence implicated in climate change (Pellow and Anguelovski, 2020; Sultana, 2022b). However, as illustrated through the example of the CICC, the political value of these imaginative or prefigurative interventions is contingent on their capacities to generate lasting material structures, collectives and networks which sustain further struggles towards turning radical imaginaries of climate justice into reality.

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