

COURT FOR INTERGENERATIONAL CLIMATE CRIMES



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CAMARADE



सहयुध्वा

EXHIBITION DATES

25 SEPT '21
16 JAN '22

COURT FOR INTERGENERATIONAL CLIMATE CRIMES

Court for Intergenerational Climate Crimes (CICC)
is a project by Radha D'Souza and Jonas Staal,
commissioned by Framer Framed, Amsterdam.

OPENING

24 SEPT '21

Inauguration of *Court for
Intergenerational Climate
Crimes (CICC)*

HEARINGS

28–31
OCT '21

Comrades past, present
and future vs. Unilever,
ING, Airbus and the
Dutch State

JUDGES

Radha D'Souza
Sharon H. Venne
Nicholas Hildyard
Rasigan Maharajh



INTRODUCTION

BY JOSIEN PIETERSE AND CAS BOOL

In recent years, Framer Framed has contributed to the discussion about the decolonisation of institutions. Artists and curators have produced works and exhibitions that look at history through different eyes. They have offered alternative perspectives of these histories and have reflected on other possible futures. Institutions – that are within the reach of social accountability – were addressed because they signify public infrastructures of representation, for instance in museums, archives and educational institutions.

Beyond this realm of social accountability, our complex world has structures that do not always organise themselves within a democratic framework, that are difficult to access and approach, such as digital power systems or the financial and resource markets. These powerful infrastructures are not directly controlled by states or governments. They are systems that also expose underlying historical and contemporary power relations, but which we find difficult to comprehend and hold to account. Although these systems are connected to the public world – through representation in institutions by which

they connect and influence our daily lives in various of ways – they have their own logic outside of public, democratic and transparent value frameworks. They are a part of our social world of experience, but we cannot influence them through the democratic pathways that are available to us as citizens. This becomes especially urgent as these systems, along with their colonial foundations, lay the course for the climate crisis.

There is an increasing number of artists who feel the need to target these systems of injustice and hold them accountable. They do this in close collaboration with researchers, activists and journalists. These artists seek a truth, which is often revealed by examining the politics around evidence and its mode of representation. Radha D’Souza and Jonas Staal can be seen as one such art-research team. Over the past two years, and in close collaboration with the Framer Framed team, they conducted research for the *Court for Intergenerational Climate Crimes* (CICC). This art project takes the form of a court where states and corporations can be held accountable, not only for the

here and now, but also for the consequences of their actions on future generations.

During the project’s research process, we met with activist organisations across the world to hear their stories and learn from their struggles against the actions of corporations. The CICC hearings become an arena in which to share this knowledge with a wider public. With thorough substantiation, through evidence from these organisations and based on extensive research, a new reality of climate law is enacted. Situated within the realm of art, this reality is staged with the hope that it will have actionable influence on corporations and judicial systems as they operate in public life and in the face of climate collapse.

This work investigates how we can get to grips with the mystifying and complicated constructions of corporations and make visible their underlying values in order to be able to counteract them with a different framework of values. But the CICC is also critical of the legal system itself, which is unable to adequately cope with intergenerational responsibility or alternative knowledge systems. That is why space is provided for local and indigenous knowledge, basic democratic structures such as citizen juries and forums, and alternative media (tactical media). The project thus functions in resistance to dominant frameworks and the norms that come with them:

massive inequality, class injustice, privatisation, evasion of contributions to public funds. As a site of collective gathering in Framer Framed, the CICC is also an attempt to counter an individual sense of powerlessness. The evidence presented in the court not only focuses on climate crimes and their disastrous consequences, but also demonstrates substantial alternatives that “prove” the possibility of a future. A possibility dependent on our developing a new climate justice system in which past, present and future become equally important.

For Framer Framed, D’Souza and Staal’s project is important because it transforms the art institution into a social space. One in which not only reflection can take place, but also new forms of committed action can be imagined and put into practice. The large-scale installation will include an interactive programme of hearings in the climate court, addressing both local and international cases. This literally presents a new “frame” for the issue of climate justice, which actively responds to the burning urgency of this moment.

COURT FOR INTERGENERATIONAL CLIMATE CRIMES

The Court for Intergenerational Climate Crimes (CICC) is a collaboration between Indian academic, writer, lawyer and activist Radha D'Souza and Dutch artist Jonas Staal, which takes the form of a "more-than-human tribunal" to prosecute intergenerational climate crimes.

The legal framework of the CICC is based on D'Souza's book *What's Wrong with Rights?* (Pluto Press, 2018), a critical analysis of neoliberal legal institutions. Rather than thinking of rights as individual property, D'Souza proposes to rethink the current rights regime to acknowledge the reality of interdependency between human and non-humans in shared ecosystems. If the rights of a river are harmed, the rights of all animals, plants and humans living in interdependency with that river in present and future are harmed as well. Rights can thus never be individuated, but must be considered as interdependent and intergenerational. When considered in that way, the concept of rights transcends the meanings that capitalist modernity gives to them.

From 28-31 October, the CICC will host hearings in which evidence will be presented by prosecutors and witnesses relating to intergenerational climate crimes committed by corporations and states acting in concert. This is followed by the presentation of evidence of alternative forms of collective action in defence of intergenerational climate justice. The CICC focuses on corporations registered in the Netherlands – such as Unilever, Airbus and ING – as well as the legal frameworks established by the Dutch state system supportive of corporations, such as Bilateral Trade Agreements.

The CICC aims to present evidence of climate crimes both past and present, assessing their impact in the here and now and their impact on planetary life of the future. As such, the tribunal rejects linear, atomised, individualised, and adversarial premises underlying the present-day legal system and instead, seeks to establish comradely bonds with ancestors and descendants across different time scales.

In addition to prosecutors, witnesses and the public, the tribunal consists of an ecology populated by extinct animals, plants and ammonite fossils. Each of them, in a different language, is referred to as "comrade". These non-human ancestors are both evidence of past intergenerational climate crimes and witness to the collective effort of the CICC to contribute to intergenerational climate justice in the present and future.

The court proceedings will be directed by four judges: Radha D'Souza, Sharon H. Venne, Nicholas Hildyard and Rasigan Maharajh. Evidentiary testimony and presentations will be given by collectives and individuals representing Blue Planet Project, The Centre for Research on Multinational Corporations (SOMO), Global Legal Action Network (GLAN), Kenya Land Alliance, Oyu Tolgoi Watch (OT Watch Mongolia), Pueblos Indígenas Amazónicos Unidos en Defensa de sus Territorios (PUINAMUDT), Réseau d'Information et d'Appui aux ONG Nationales (RIAO-RDC), Stop Wapenhandel – European Network Against Arms Trade, Synergie Nationale des Paysans et Riverains du Cameroun (SYNAPARCAM), Vettiver Collective, WALHI West Java (Friends of the Earth Indonesia), Watch The Med, and more.

COURT FOR INTERGENERATIONAL CLIMATE CRIMES, 2021

INSTALLATION

The Court for Intergenerational Climate Crimes (CICC) takes the form of a fragmented wooden construction, that is modelled as a landscape within the exhibition space of *Framer Framed*, developed in close collaboration with architect Paul Kuipers. It manifests as a curve of different heights, with a site of assembly at its centre, where prosecutors, witnesses and judges will oversee public hearings against transnational corporations and states accused of intergenerational climate crimes.

The court is permanently inhabited by various extinct species. The centre of the court consists of a pool of refined oil – fossil fuel – with a stone ammonite fossil placed in the middle, a family of octopus and squid that perished in the 5th mass extinction 66 million years ago, just as we are facing the 6th mass extinction in the form of the present ecosystem collapse. The presence of the fossil in the oil emphasises 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.

Through the installation, the CICC proposes a “more-than-human” tribunal: a space that puts the focus on comradeship and interdependency across generations between human and non-human ecosystem workers and their violated biosphere. Instead of burning the fossils of deep past, the CICC aims to overcome the separation between humans and nature, emphasising shared bonds through struggle to dismantle racial and ecocidal capitalism, along with its corporate and state agents, in order to ensure deep futures for all.

UKPART



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COMRADES IN EXTINCTION, 2020-21

SIGNS, BANNERS, FOSSILS

The *Court for Intergenerational Climate Crimes* (CICC) is permanently inhabited by various extinct species, ranging from animals to plants to ammonite fossils, placed on metal rods. In the court they form evidence of past extinctions, while also acting as witnesses to the efforts of the CICC to provide evidence of intergenerational climate crimes and enact intergenerational climate justice in the present to enable alternate futurities.

The extinct animals take the form of sixty-five paintings of various animal species that became extinct due to climate crimes, from the colonial era to the present, which in the installation are printed on canvas and mounted on various signs.

D'Souza and Staal point out that climate crimes began not with the eras of the first and second industrial revolution, but with the period of colonisation. The legalised destruction, theft and enslavement of humans, animals, plants and resources, marks the first waves of extinctions, both of life forms as well as of cultures and their languages. The origin of intergenerational climate crime begins the moment the living world is turned into (colonial) property.

On the signs, each animal is named “comrade”, in different languages.

The use of the word “comrade” indicates their political agency, as fellow ecosystem workers, with whom humans live in interdependency. This mode of address honours comradely bonds with non-human ancestors, as much as it mourns their disappearance and stands as an accusation against the states and transnational companies responsible for their destruction. Using different languages also marks the relationship between climate crimes and the destruction of cultures; with the death of animals, plants and the ecosystems they are part of, so comes the death of tradition, language, memory and forms of life that constituted an inherent part of these comradely ecosystems.

The extinct plants in the installation of the CICC are depicted through twenty woven banners. Upon coming closer, one can see the bandages scientists used to maintain the outer form of the dried specimens in research archives: human prostheses to capture the ghostly presence of life forms lost under racial-ecocidal capitalism. Rejecting Latin naming systems, each plant and animal species is termed “comrade”, affirming bonds with non-human life forms against their extractivist classification. For tragically, the very history of colonial “discoveries” of the so-called “New World”





of these plants is inherently tied to their extinction. Comrade plants and comrade animals are no property, but fellow agents in collective political ecosystem struggle, human and non-human alike.

In between the extinct plants and animals, one encounters ammonite fossils from the Moroccan region of Agadir, that perished in the 5th mass extinction, just as we are confronting the 6th mass extinction. They are fossils, just as much as we are fossils-in-the-making. Simultaneously, they represent the fossil in fossil fuels.

Rather than burning the fossils, which denies common survival, we can learn from these fossilised earth memories, as they bring into presence millions of years: deep pasts that agitate the necessity to struggle for deep futures for all.

COURT FOR INTERGENERATIONAL CLIMATE CRIMES, 2021

VIDEO

When the *Court for Intergenerational Climate Crimes* (CICC) is not in use for larger gatherings, a video is played on a loop on the four main screens at the centre of the installation. Narrated by Radha D'Souza, the video introduces the alternative legal framework of the CICC, which not only brings into evidence climate crimes of the past, but equally, prosecutes climate crimes on behalf of unborn human and non-human comrades of the future.



Radha D'Souza and Jonas Staal, *Court for Intergenerational Climate Crimes, Video* (2021)
Video Still: Ruben Hamelink



Radha D'Souza and Jonas Staal, *Court for Intergenerational Climate Crimes, Video* (2021)
Video Still: Ruben Hamelink

HEARINGS SCHEDULE

28-30 OCTOBER | 13:00-18:00

From October 28-31, 2021, public hearings will be held in the *Court for Intergenerational Climate Crimes (CICC)* against various transnational corporations and the complicity of the Dutch State in perpetrating intergenerational climate crimes. The proceedings consist of introductions by prosecutors and various witness testimonies, which will be overseen by four judges: Radha D’Souza, Sharon H. Venne, Nicholas Hildyard and Rasigan Maharajh. During the hearings, emphasis will be placed on the intersection of climate crimes with environmental pollution, desertification, racism, mass displacement of people, the military industrial complex and other forms of intergenerational climate crimes.

OCTOBER 28, 13:00-18:00



COMRADES PAST, PRESENT AND FUTURE VS. THE DUTCH STATE

This case will indict the Dutch State for establishing Bilateral Trade Agreements as a legal framework for the benefit of transnational corporations and the state itself. Bilateral Trade Agreements will be explained, and evidence will be presented on the ecocidal, social impacts of such agreements on ecosystems communities in Bolivia, Peru and Mongolia.

CONTRIBUTIONS BY

- Blue Planet Project
- Oyu Tolgoi Watch (OT Watch Mongolia)
- Pueblos Indígenas Amazónicos Unidos en Defensa de sus Territorios (PUINAMUDT)
- The Centre for Research on Multinational Corporations (SOMO) a.o.

OCTOBER 29, 13:00-18:00



COMRADES PAST, PRESENT AND FUTURE VS. UNILEVER

This case indicts Unilever and the Dutch State for committing different types of climate crimes by their destructive activities, such as mercury poisoning of rivers, monocultures of agriculture and the active undermining of democratic institutions, through witnesses from India, Democratic Republic of the Congo and Kenya.

CONTRIBUTIONS BY

- Kenya Land Alliance
- Réseau d’Information et d’Appui aux ONG Nationales (RIAO-RDC)
- Vettiver Collective a.o.

OCTOBER 30, 13:00-18:00

COMRADES PAST, PRESENT AND FUTURE VS. ING

This case indicts ING for establishing financial syndicates and cartels to fund ecocidal, socially disruptive activities by transnational corporations; and indicts the Dutch State for establishing the legal frameworks facilitative of ING's activities and for profiting from them. Evidence will be introduced of the impacts of ING finance and investment in coal plants, palm oil production and deforestation by witnesses from Indonesia, Cameroon, a.o.

CONTRIBUTIONS BY

- Synergie Nationale des Paysans et Riverains du Cameroun (SYNAPARCAM)
- The Centre for Research on Multinational Corporations (SOMO)
- WALHI West Java (Friends of the Earth Indonesia) a.o.

OCTOBER 31, 13:00-18:00

COMRADES PAST, PRESENT AND FUTURE VS. AIRBUS

This case indicts Airbus Industries for designing, manufacturing and trading in destructive weapons including fighter planes, surveillance equipment and other weapons of war, with devastating environmental, social impacts in the Global South. Evidence will be presented on the environmental and social impacts of European wars using Airbus technologies that have deadly impacts on the environment, refugees and asylum seekers

and the people of Yemen, by witnesses from global justice campaigns from Italy and Yemen, a.o.

CONTRIBUTIONS BY

- Global Legal Action Network (GLAN)
- Stop Wapenhandel (European Network Against Arms Trade – NL)
- Watch The Med a.o.





THE INTERGENERATIONAL CLIMATE CRIMES ACT



The Intergenerational Climate Crimes Act [2021 (Christian); 1443 (Hijri), Pilava (Tamil), 2078 (Gujarat), 1943 (Western India), 2564 (Thailand), 1400 (Persia), 5782 (Hebrew), 4718 (China), 110 (North Korea)]¹

28th October 2021 of the Christian calendar and corresponding dates, months and years in all other calendars.

AN ACT TO ABOLISH INTERGENERATIONAL CLIMATE CRIMES, TO ESTABLISH INTERGENERATIONAL RELATIONSHIPS OF SOLIDARITY AND COMRADESHIP AMONG HUMAN, AND HUMAN AND NON-HUMAN SPECIES, ESTABLISH THE COURT FOR INTERGENERATIONAL CLIMATE CRIMES, AND PROPOSE MEASURES TO REMEDY THE ABUSE OF INTERGENERATIONAL AND INTER-SPECIES RELATIONSHIPS IN THE PAST BY CERTAIN PERSONS.

BE IT ENACTED BY THE ASSEMBLY OF ALL THOSE PRESENT, IN THE NAME OF THE HUMAN AND NON-HUMAN ANCESTORS, MOTHER EARTH AND THE COSMOS, AND BY THE AUTHORITY OF THOSE PRESENT IN THIS ASSEMBLY IN THEIR CAPACITIES AS THE ANCESTORS OF FUTURE GENERATIONS:-

1. TITLE AND COMMENCEMENT

This Act shall be called the Intergenerational Climate Crimes Act. The Act shall come into force on 28 October 2021 in the Christian calendar and corresponding dates, months and years in other calendars.

2. INTERPRETATION | In this Act:

2(1) “Climate” means the conditions necessary for reproduction of every species, including but not limited to:

- a. Patterns of weather in an area within living memories of humans;
- b. Patterns of weather in an area that were necessary for non-human species to survive in the past;
- c. Patterns of weather in an area that were necessary for humans to reproduce the conditions necessary for individual, social and cultural life;
- d. Ecological conditions necessary for reproduction of different species;
- e. Socio-ecological conditions necessary to sustain reciprocal relationships between humans and non-humans;
- f. Social conditions necessary for the survival of human societies and cultures.

2(2) “Humans” means a concept-dependent herd animal that requires pre-existing concepts to negotiate the world around them and has capacities to make judgments and to review, reassess, modify, alter, change, and repudiate individual and collective behaviour in a manner that may or may not be in the interests of future generations of humans and/or non-humans.

2(3) “Intergenerational” includes all past, present and future generations. For the purposes of this Act, it is clarified that:

- a. The term intergenerational is not limited to a single step in the line of descent from an ancestor;
- b. The meaning of a generation is not limited to thirty years or other definitive numbers of years;
- c. A generation may be of a different length of time for different species;
- d. Intergenerational relationships include relationships between humans, between non-humans and between humans and non-human species;

2(4) “Legal entities” are legal artefacts established by a group of persons with authority to do so for the purposes of limiting their environmental, social and legal liabilities, and responsibilities arising from their activities.

- a. For the purposes of this Act a state established under any constitution is a legal entity.

2(5) “Market Based Communities” means groups of people who form associations, legal entities, voluntary self-help groups or other unions for the purpose of buying and selling or trading something in markets established for such transactions and activities related to the transactions.

2(6) “Non-humans” means all other species in the past, present, or future, that are living, have lived, or will live in the future;

- a. It is clarified that non-humans include any natural phenomena like water bodies, including rivers, rivulets, streams, ponds, lakes, seas, and oceans; rock formations including mountains, hills, ranges, caves, crevices and such; plant species of any variety and any other life-form that is subject to its laws including birth, death, deterioration and regeneration.
- b. It is clarified that humans and non-human species may have more or less shared attributes and characteristics.

2(7) “Person” means any living being subject to laws of Life, i.e. birth, life, death and regeneration cycles over periods of time as appropriate for each species.

- a. “Person” does not include a “legal person” i.e. legal artefacts that are conferred with human attributes by the fiat of law.

2(8) “Place Based Communities” means groups of people who live in a place including a region, or area, or locality, and by virtue of doing so, constitute a community.

- a. “Place Based Communities” may differ in size, numbers of people, and/or scale of operations;
- b. “Place Based Communities” may collectively determine the most effective ways of governing and discharging their responsibilities of guardianship over present and future generations and their natures managing their communities and their ecologies consistent with the provisions of s.5 of this Act.

2(9) Interpretation of words and meanings in any existing statute adopted by any legal entity shall be consistent with the meanings of terms in s.2 and the aims and objectives of this Act.

3. INTERGENERATIONAL CLIMATE CRIME

3(1) An “Intergenerational Climate Crime” is committed when a group of persons acting as a single “legal person” in the name of a legal entity as defined in s.2(4), under the laws established by themselves, engage in acts of commission and/or omission, or engaged in acts of commission and/or omission in the past, that harm or harmed, destroy or destroyed, violate or violated or otherwise adversely impact or impacted the conditions necessary for the reproduction of any species, including but not limited to:

- a. Acts of commission and/or omission, in the past and/or present, that harm/harmed, destroy/destroyed, violate/violated, or otherwise adversely impact/impacted upon weather patterns in the short or long term;
- b. Acts of commission and/or omission, in the past and/or present, that harm/harmed, destroy/destroyed, violate/violated or otherwise adversely impact/impacted upon weather patterns in an area, as a result of which the survival of non-human species became or has become difficult or impossible;
- c. Acts of commission and/or omission, in the past and/or present, that harm/harmed, destroy/destroyed, violate/violated or otherwise adversely impact/impacted upon relationships of mutual dependence and reciprocity between species or within species, human or non-human; and/or introduce/introduced adversarial relationships between them.
- d. Acts of commission and/or omission, in the past and/or present, that displace/displaced people from places, fragment/fragmented communities, and destroy/destroyed cultures.

4. COURT FOR INTERGENERATIONAL CLIMATE CRIMES

4(1) A Court for Intergenerational Climate Crimes shall be established under this Act.

4(2) The Court shall have the authority to hear complaints about intergenerational climate crimes committed in the past and present, and acts having impacts upon future generations from any person or persons acting on behalf of themselves, and/or their communities, and/or their ancestors, and/or non-humans, and/or future generations.

4(3) The court may receive evidence, hear witnesses and make such inquiries as may be necessary to do real and substantial justice to humans and non-humans, past, present and future.

4(4) All hearings shall be in open court.

4(5) Persons present at the hearings in their capacities as ancestors of future generations shall constitute the jury.

5. PENALTIES FOR INTERGENERATIONAL CLIMATE CRIMES

5(1) “Legal persons” as defined in s.2(4) who engage or engaged in intergenerational climate crimes shall be dissolved and divested of their legal personhood.

5(2) Upon dissolution of any legal entity the human persons acting in the name of the legal entity and aiding, abetting and/or inciting intergenerational climate crimes under s.3 of this Act shall be automatically divested of their authority to act in the name of that legal person.

5(3) Such human persons, including managers, executives, officials and other personnel, who were at the time of dissolution employed by the legal entity, will be eligible to join a Place Based Community in any place subject to being accepted by the Community, on such terms and conditions as the Community may impose.

5(4) Upon dissolution, any assets of the legal entity shall become social assets and handed over to the Place Based Community affiliated to the place where the assets are located.

5(5) Place Based Communities may determine how they wish to use, reuse or not use the assets of dissolved legal entities in their places, regions, areas or localities consistent with the principles of ecological and social regeneration and restoration set out in this Act.

6. GENERAL PRINCIPLES FOR GOVERNANCE OF PLACE BASED COMMUNITIES

6(1) Place Based Communities may collectively determine ways of establishing systems of guardianship to build and sustain regenerative and restorative relationships between humans, between humans and non-human species including animals, plants, fungus, water, forests and land subject to the general principles set out in this section.

6(2) Place Based Communities will, at all times, be guided by principles of restoration and regeneration of natures and cultures, including species, waters, forests, lands and human communities as necessary according to the specificities of their places, regions, areas or localities.

6(3) Place Based Communities will prohibit sale of land, forests, water and minerals in their places, regions, areas or localities when organising their livelihoods, and the production of goods and commodities necessary for their communities.

6(4) Place Based Communities will prohibit sale of human labour of members of their communities directly or indirectly.

6(5) Place Based Communities may however use their labour power to work with their own natures and ecologies, as local conditions may permit, to produce goods and commodities for sale beyond their places, regions, areas, or localities.

6(6) Place Based Communities will place ecological relationships at the centre of their laws to sustain livelihoods and nurture interdependence of species.

6(7) All human persons shall share positions of responsibility, care, and authority for Place Based Communities and ecologies of any place, region, area or locality equally within the governing structures of such Place Based Communities.

6(8) Place Based Communities will develop systems for dispute resolution to settle differences within their community.

6(9) Place Based Communities will establish systems for defending their natures, ecologies, communities, and cultures from hostile attacks by legal entities.

7. TRANSITIONAL ARRANGEMENTS

7(1) Place Based Communities may put in place short term and long-term transitional arrangements to restore and regenerate natures, ecologies, communities, and cultures destroyed by legal entities. Such transitional arrangements may include:

- a. Emergency plans for revival and survival of human and non-human species, waters, forests and lands;
- b. Arrangements for defence of places if, and only if, attacked or harmed by persons continuing to act in the name of the dissolved legal entities;
- c. Arrangements for guardianship, including modifications and changes to existing institutions and entities, as may be necessary temporarily.

7(2) Market Based Communities may put in place transitional arrangements to transition from Market Based Communities to Place Based Communities affiliated with specific places.

- a. Such transitional arrangements may include recognition of market associations and organisations for limited periods of time;
- b. Such transitional arrangements shall not include recognition of legal personality or personhood of legal entities.

8. ESTABLISHMENT OF INTERCOMMUNITY SOLIDARITY AND COOPERATION

8(1) Place Based Communities will create intercommunity and inter-regional bodies that will establish systems of solidarity, support and cooperation between them, and promote good relations between their natures, ecologies, communities, and cultures, including their non-human species, lands, waters, forests and people in their regions, areas and localities.

8(2) The bodies established for intercommunity solidarity and cooperation will share knowledge, expertise and experiences of restoration and regeneration of their natures, ecologies, communities, and cultures on the basis of reciprocity and well-being of all species in their regions or areas.

9. REPEAL AND AMENDMENTS

9(1) This Act does not envisage repeal of the general principles of Place Based Communities.

9(2) Place Based Communities may, however, make, modify, amend, or introduce such measures as may be necessary to give effect to the general principles stated in s.5 as the specific conditions in their places, regions, areas, or localities may require.

¹The Intergenerational Climate Crimes Act is published by Radha D'Souza and Jonas Staal under Creative Commons BY-NC-ND 4.0

A CONVERSATION BETWEEN RADHA D'SOUZA AND JONAS STAAL

This conversation was first published in *Errant Journal #2* on Slow Violence titled *Introduction to the Court for Intergenerational Climate Crimes (CICC)* as part of a special on climate justice edited by Radha D'Souza and Jonas Staal with contributions by the judges of the CICC.

Jonas Staal: Your book *What's Wrong With Rights?* is the starting point for our collaboration on the *Court for Intergenerational Climate Crimes (CICC)*.¹ You analyse how the liberal discourse on rights translates to the human rights regime. Rather than strengthening the principle of the right to self-determination, the human rights regime individuates rights as a property, to the point of corporations being able to acquire personhood as well. You also describe how the human rights regime comes with mechanisms of coercion through international election monitoring and World Bank indebtedment, undermining other forms of societal organisation and life-forms that defend the need to redistribute rights instead. In that light, you warn that social movements should be careful of playing into the narrative of the human rights regime, as this risks strengthening the powers that they aim to overcome. Could you say something more about what a redistribution of rights would entail in the context of intergenerational climate justice? And could you elaborate on what you have described as 'nature as a relation' that demands that we do not limit rights to human individuals alone, but acknowledge our interdependency with non-human and other-than-human comrades as well?

Radha D'Souza: In the book I write about land and nature being a relationship to challenge certain ideas

first spawned during the European Enlightenment. Feudal societies everywhere were land-centric societies. Even though peasants and serfs were exploited, they were tied to nature, community and place. The European Enlightenment transformed land and nature into property, and people into 'labour force'. The separation of nature and people, often forcibly, transformed both into commodities – living nature and people became 'things' that could be bought and sold in property and labour 'markets'. I call this forcible rupture of the relationship between nature and people and their eviction from places 'the original sin' of capitalism.

European modernisation ruptured those bonds. It transformed places into territories that requires authorisation by states through grant of citizenship for people to live and work. My point is, whatever the law may say about property and labour markets, the reality of life has reaffirmed over and over again through crises after crises that have riddled capitalist modernity, that it is not possible to reproduce the conditions necessary for human life when the relationship between nature and people is ruptured, or when it becomes an abusive relationship.

¹ D'Souza, Radha. *What's Wrong With Rights? Social Movements, Law and Liberal Imaginations*. London: Pluto Press, 2018.

My point is that nature and people can never become commodities like shoes or shirts. People can work nature, grow cotton or make leather, and sell the shirts and shoes as products of their labour and engagement with nature. But when nature and labour begin to be bought and sold in their own right, as has happened since 'the original sin', both are destroyed. This is what we are witnessing today on a global scale.

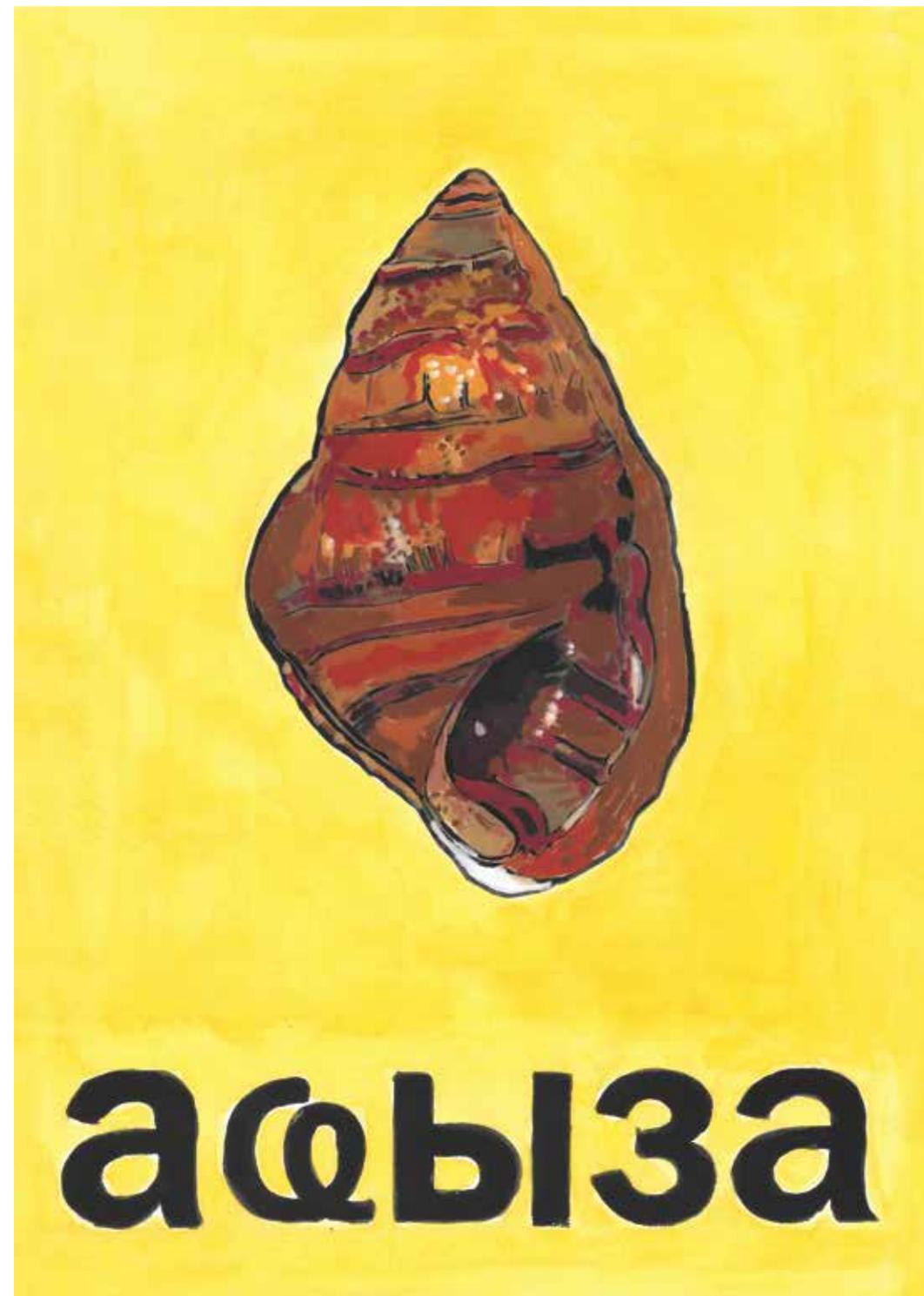
You are a visual artist with deep commitment to social and global justice. I have seen and actively participated in some of your projects, for example in New World Summit – *Utrecht* (2016) and *New World Embassy: Rojava* (2016). What was it in *What's Wrong With Rights?* that triggered your artistic and visual imaginary? The book is an academic engagement with law, a subject that many will consider dry and difficult. How did you identify artistic potential in the ideas that the book develops?

JS: When people ask me about your book and what it means to redistribute rights not as individual property, but as a collective endeavour, I always summarise it as follows: when the rights of a river are harmed, the rights of all humans, animals and plants that live in interdependency with that river are harmed as well. Thus, you shatter the illusion that rights can be individualised: rights are interdependent, and intergenerational, meaning that

our actions in the present will be inherited by unborn comrades humans, animals and plant life of the future. Rights cannot be individualised but can also not be bound by the time in which we live, but concern both ancestors and successors.

For me, this understanding of nature-as-relation that you bring about, is essential in conceptualising new forms of emancipatory institutions that can enact principles of social justice, and I was excited about the idea that we could translate some of your theoretical models into spatial morphologies. An idea always has a form. It offers a chance to not only study an idea, but inhabit it, embody it, and to make it actionable in different ways. This is how I saw our dialogue resulting in the CICC: an alternative, more-than-human tribunal to prosecute climate crimes of the past, present and future, in defence of an interdependent ecology of comradeship and a redistribution of rights - against what you termed the 'original sin of capitalism'.

As a result, the space of the court that you and I have worked on, has become a kind of ecology in its own right – but one that does not deny the violation brought about by racial capitalism. Half of our court will be occupied by humans, the other half by images of extinct plants and animals, perished from the advent of colonialism – what you have described as



the actual beginning of the climate catastrophe – as well as ammonite fossils: literally the fossils in fossil fuel. The fossils created by millions of years of earth work in the form of disintegrated bodies of animals and plants that are now burned to accelerate the present and make an inhabitable future impossible. They stand as non-human witnesses in our court, as comradely ancestors, and as evidence of violated ties in our shared ecology.

But what does it mean for you, as a writer, a thinker, activist and lawyer to engage with the field of art?

RDS: Your question touches a raw nerve in me as a writer, thinker, activist and lawyer. The most important precondition for a thinker is the freedom to think. Liberal rights to freedom of speech, expression and conscience throttle the very freedom to think that the right promises. Let me explain.

Most of the time, people go about their everyday lives engaging in activities to provide for their families and cement social bonds - festivals and rituals for example. However, every society throughout human civilisation has always had, and must have, some members of their communities who think about the future of the communities and the conditions necessary for its reproduction as a social unit, which of course includes their relationship to their natural environment.

For this reason, indigenous communities valued their shamans and elders, feudal communities produced their gurus and itinerant preachers outside the formal institutions of religion. Women played a big part in thinking about futures of natures and communities, and ancient civilisations assigned a special place for them in society. These men and women foresaw dangers and acted like antennas and sensors to warn about existential threats. This social role of thinkers is magnified during times of crisis. Unlike animals, human beings do not have an instinctive sense of social danger and collective self-preservation. Human beings must cultivate that intuition through practice and knowledge. Thinkers and teachers play a big role in safeguarding conditions for life by acting as social antennas and sensors. Liberalism takes away the capacities of thinkers to act like social antennas and sensors of their communities to warn them about impending dangers to their survival.

Liberalism does this first and foremost by making thinking a paid professional occupation – and an individualist one at that. Thinkers are alienated from the world they think about. In a paid job, intellectuals are expected to think about the survival of the institutions that pay them, which is not the same thing as survival of natures and communities. When scholars speak about dangers to natures and

communities, about the disastrous consequences of carbon emissions for example, they are expected by the institutions that employ them to do so in a way that leads to its certification, trading and carbon markets, so that corporations and states can survive first by emitting carbon, but also profit from the solutions.

Secondly, liberalism dismisses ontological questions by which I mean the big questions about our life-world, such as: what is the meaning of life, what is its purpose, what is human destiny, ethics and aesthetics? In liberal philosophy these are worthless questions because they do not directly yield marketable results. Instead, liberalism privileges statistical reasoning necessary to administer large organisations, empiricism that limits thinking to what is visible on the surface, and atomism necessary for turning relations into ‘things’. Knowledge becomes compartmentalised into disciplinary silos such that we reduce the majesty of the universe into a small sliver of it. We lose perspectives on life as a result because we have no way of putting production, consumption and exchange into the wider context of human destiny and purpose. Knowledge becomes ‘knowledge production’ and a marketable commodity in service of the markets.

Merchants have always existed in all civilisations as people who facilitated exchange of goods and services. European Enlightenment, for the first time, makes the merchant’s view of the world and the merchant’s purpose the human world view and purpose. What does all this have to do with your question about what it means as a thinker to engage with the field of art? In one word it means freedom, the freedom to think.

Today, art is the only small island left that gives the space for thinkers to think. Of course, art is also hugely commodified and there is a global art market out there. Yet, at a time when universities are closing down philosophy departments, when philosophers are called upon to produce practically ‘useful’ knowledge, when the rupture with nature has alienated so many, that even many radical thinkers are often unable to join the dots, radical art offers the space from where new thinking can emerge about the big existential questions of our times.

You said that, for you, ideas always have form. Equally, we can say form shapes ideas. Human beings are concept dependent species. They need concepts to navigate their way around the world – when they see fire, they should be able to imagine what it will do to them if they touch it. Nature is an infinite source of forms, and for this reason it becomes an inexhaustible source of concepts and ideas.



KAMMERAT

Nature cannot not exist except as forms and those forms in nature have shaped human concepts and enabled human beings to negotiate the world since times immemorial. For example, in yoga the idea that standing like a palm tree (tada-padmasana) strengthens your spinal cord – derives a very scientific idea – the importance of posture and how to strengthen your spine - from the very visual image of a palm tree. First, it invites you to imagine your back to be straight like a palm tree, and then it asks you to imitate it in daily exercises to keep your spine and therefore body healthy. All exercises in yoga mimic postures of animals and trees.

When our relation to nature is ruptured, as liberalism does, we lose our capacities to develop concepts and ideas from the infinite treasure trove of forms that nature provides. Here too art enables us to expand our imaginaries by visualising the fate of so many species and so much of nature that has become extinct because of our destructive social institutions. A depiction of the devastation caused by deforestation driven by states and corporations acting as accomplices could help us to imagine apocalyptic destruction of planet Earth. It could help us envisage the consequences of continuing to believe that states and corporations can be right bearing persons like you and me, and that they can be, both, the cause of our destruction and our saviours at the same time.

The CICC project is attempting to expand people's imaginaries. To show how our legal systems which actualise philosophical and political liberalism, something my book delves into, creates these modern-day monsters called legal persons – like corporations and states – which are the focus of the CICC project. These legal persons work to reproduce the conditions of existence for corporations and states in ways that make it impossible for human beings to reproduce the conditions for their existence and for nature to regenerate. States and corporations say their survival is essential for the survival of life. The CICC project aims to show exactly the opposite is true – that states and corporations are not 'people' but legally established social structures that threaten the survival of all life forms and have already made extinction a reality for many species, including human communities.

Your art has always highlighted social movements and struggles. Historically, art has been an important mobiliser of social change. Do you see a movement of artists emerging in the same way from the intergenerational climate crisis that we are witnessing? What would the stylistic features of the art forms look like? Can it challenge the dystopic art movements inspired by pessimism that we are seeing in so many places today?

JS: For me, the way you describe art relates to the radical imaginary. The institutions of art, its infrastructures and financialisation, as you mentioned, are primarily tasked with reproducing legitimacy of the existing political and economic order. Artists are companies and artworks are stocks – its most substantial impact is, as artist Hito Steyerl observed, ‘to make capitalism beautiful’.² But the imaginary is not limited to the commodification of art, it belongs to everyone, and relates to our capability to imagine the world otherwise. And to change the world, we have to imagine change first. In that sense, artistic imagination is an essential component of any process of political transformation.

Of course, imagination cannot stand in and of itself. As artists dedicated to emancipatory politics, we re-imagine the world not as a task in and of itself, but to construct reality differently. To ensure a redistribution of wealth, to ensure common ownership, to dismantle the primacy of private property, to establish equal access to healthcare, education and culture. To achieve this, we have to be more than artists, but also organisers and propagators, agitators and mobilisers, and, most of all, comrades in social movements and emancipatory political organisations.

From the work of Forensic Architecture dealing with the weaponisation

of the climate in perpetuating war crimes, to the agitational performative protests under the slogan ‘We are nature defending itself’ by the Laboratory for Insurrectionary Imagination, and the food and seed activism of Zayaan Khan, I certainly see artists and cultural workers organising to confront the political and economic forces that drive the climate catastrophe. But more importantly, I see that they don’t do this under the guise of the ‘autonomist artist’, but as part of a relational alliance with progressive lawyers, activists and emancipatory political leaders. Just as you make clear that we should reject the individuation of rights in order not to reproduce liberal fallacy, so should we equally not individuate the imagination, and the work to transform imagination into political reality.

² Steyerl, Hito. *The Wretched of the Screen*. Berlin: *e-flux journal* and Sternberg Press, 2012: p. 93.

This for me is essential, to understand artistic imagination, to understand radical imagination, as common and relational. To cut it from our larger struggle, to isolate it, is to reproduce the separation that you describe between humans and nature. It means to commodify the imagination as something that can be held, traded, priced, owned. Ideas have forms, and forms shape the practice and furthering of ideas – this is at the core of an interdependent emancipatory artistic and cultural practice that breaks with the idea of the sovereign artist. The artistic and cultural heritage I work from is inherited from the new forms of art and culture that contributed to, and became possible through, new forms of politics, from the Soviet revolution to Thomas Sankara’s eco-socialism, from the Sandinista’s to the social ecology furthered by the Rojava Revolution.

That brings me to a hard question to answer. You and I, through your research in *What’s Wrong With Rights?*, have conceptualised a visual morphology of an alternative climate tribunal. One that acts upon your proposition for a redistribution of rights, by proposing a space where we enact interdependent and intergenerational rights for our human, non-human, other-than-human, and more-than-human comrades living – surviving

– our violated present, and for the unborn human, non-human, other-than-human and more-than human comrades yet to come. We have imagined this, but how will we bring it into practice? How do you envision, at this stage, the legal framework and procedures for the prosecution of intergenerational climate crimes in the CICC? Can we contribute to bridging the space between artistic and legal imagination, to shape political reality?

RDS: The essence of your question is about the relationship of theory and practice. The relationship between knowing and acting is one of the big mysteries of life in my view. What impels us to act or do something? Liberalism has normalised the idea that knowledge will automatically lead to rational action for change, and that rights facilitate the passage from rational knowledge to rational action. Is this true, however? There is a large body of scientific knowledge that has been warning us for many decades now that the way we exploit nature is having disastrous effects on our lives, and an equally large body of knowledge that tells us wars and corporate looting of the Third World conducted by military-industrial complexes are the main causes of the migration crisis that is occurring on a global scale. If knowledge and reason, mediated by rights, lead to actions for change, we would all be out on the streets to end all wars, all corporate looting and abuse of environment, and the politicians would readily bow to popular will and end abuse of natures and peoples, as they are supposed to do in theory. That is not happening, and it is not because we do not know what is wrong. This is where the attribution of personhood to states and corporations and their relations become so central - as the CICC project hopes to show.

The important thing to bear in mind is that change could happen and hap-

pen suddenly. Revolutions in history have always been unexpected events, they have always come as a surprise. Who thought the Bolsheviks would win? Or the French peasants would put the aristocrats under the guillotine, or that the Chinese would succeed in the Long March? Often these changes are sudden. Radical change happens when there is a constellation of conditions. The mighty Soviet Union suddenly and quickly imploded, as did the British Empire. George Floyd was by no means the first African American to be murdered by the police. Why did his murder ignite such global reaction? For twenty-five years people of Bristol in the UK had campaigned for removing the statue of the slave owner Colson, then one day on an impulse, with no planning whatsoever, they threw his statue into the river in a totally spontaneous way. How did that happen?

Institutions implode under the weight of their own contradictions. This is also true for states and corporations. The real question for political action is this: when the institutions implode, are we ready to seize the moment and change the world? For example, capitalism's collapse in the early twentieth century led to two world wars, and opened up spaces for political actions in unexpected ways. The fascists, and different schools of liberals, intervened to restore and rebuild capitalism. The socialists and anti-colonialists also seized the moment to push



their own agendas for liberation. They had been preparing for a long time so that when the institutions of markets, states, and civil society imploded, they had their own agendas ready at hand, and they could tailor their interventions to gain maximum advantage for themselves. They did succeed in doing that, at least partially. We can and must continue to take inspiration from our histories, study closely why and how revolutionary change occurs, continue to expand our knowledge of the world, how it works, how it exploits and oppresses, and continue to reimagine a different kind of world, continue to dream of freedom and prepare to seize the moment when it comes. States and corporations, the institutional pillars of contemporary societies, are already caught up in so many internal contradictions of their own making - global/national, economic/political, ideological/practical and much else. They could implode unexpectedly. By helping people to reimagine a different kind of world, we are preparing for that moment, so that we can seize it as others have done in the past.

The well-spring of action is our 'inner world', call it emotional, psychological, spiritual, ethical, aesthetical whatever. Our 'inner world' is formed by our social world over extended time-space conjunctures. Liberalism negates this very deep well-spring such that we are no longer able to comprehend our sources of inspiration and action.

Like the nature-labour dualism with which we started this conversation, the body-mind dualism is also foundational to liberal thought. It took the European Enlightenment thinkers a long time through successive movements in philosophy, theology and science to establish the body-mind or mind-matter dualism.

Like with the forced displacement of people from land that alienated them from nature, the body-mind dualism introduces a schizophrenic relationship between our biological existence, food, clothing, shelter and such, our social existence, friends, family, solidarity, community and such, and our 'inner life'. Having thus separated nature from people and people from their 'inner lives', liberalism seeks to reconnect the three through 'free will', which is also a fundamental concept. 'Free will' is premised on reason which operates in the domain of the mind. Collective action cannot come from atomised minds, however. That is why radical art and literature, that is, art and literature that is not commodified, is so essential to restore our 'inner self' which is the well-spring for action. There cannot be transformative change without knowledge that speaks to our reason. At the same time there cannot be transformative action if that knowledge is not accompanied by art, literature and music that can speak to our hearts, our ethics and aesthetics.

The CICC project deconstructs legal frameworks and procedures and shows how they are based on the ontological falsehood that state and corporations are 'persons'. The project exposes how the law creates these golems and breathes life into them, and how the extended lives of states and corporations as legal persons allows them to commit crimes that are intergenerational. By deconstructing and exposing the state-corporation relationships and their complicity in intergenerational climate crimes, the CICC project will, I hope, contribute to bridging the gap not only between artistic and legal imaginations, but also help to connect our minds to our 'inner self' so that we are able to act to shape political and social realities.

ABOUT

RADHA D'SOUZA



Radha D'Souza is a Professor of International Law, Development and Conflict Studies at the University of Westminster (UK). Before joining the University of Westminster in early 2007, she taught law at University of Waikato in New Zealand, and development studies, sociology and human geography at the University of Auckland. She practiced law in the High Court of Mumbai in the areas of labour rights, constitutional and administrative law, public interest litigation and human rights.

D'Souza works as a writer, critic and commentator. She is a social justice activist and worked with labour movements and democratic rights movements in her home country of India as an organiser and activist lawyer. She has worked with social justice movements in the Asia-Pacific region to focus attention on the effects of international economic policies on developing countries.

D'Souza has a BA in philosophy from Elphinstone College (University of Mumbai) and a LLB from New Law College (University of Mumbai), and she completed her PhD in Geography and Law at the University of Auckland. She is the author of *What's Wrong with Rights?* (Pluto Press, 2018) and *Interstate Disputes Over Krishna Waters* (Orient Longman, 2006) and works with the Campaign Against Criminalising Communities (CAMPACC) in the UK. Together with artist Jonas Staal she co-founded the *Court for Intergenerational Climate Crimes* (2021-ongoing).

JONAS STAAL



Jonas Staal is a visual artist based in Athens and Rotterdam, whose work deals with the relation between art, propaganda, and democracy. He is the founder of the artistic and political organisation *New World Summit* (2012-ongoing). Together with Florian Malzacher he co-directs the training camp *Training for the Future* (2018-ongoing), and with human rights lawyer Jan Fermon he initiated the collective action lawsuit *Collectivize Facebook* (2020-ongoing). With writer and lawyer Radha D'Souza he founded the *Court for Intergenerational Climate Crimes* (2021-ongoing) and with Laure Prouvost he is co-administrator of the *Obscure Union*.

Exhibition-projects include *Art of the Stateless State* (Moderna Galerija, Ljubljana, 2015), *After Europe* (State of Concept, Athens, 2016), *The Scottish-European Parliament* (CCA, Glasgow, 2018) and *Museum as Parliament* (with the Democratic Self-Administration of Rojava, Van Abbemuseum, Eindhoven, 2018-ongoing). His projects have been exhibited widely at venues such as the Stedelijk Museum in Amsterdam, M_HKA in Antwerp, Moderna Museet in Stockholm and the Nam June Paik Art Center in Seoul, as well as the 7th Berlin Biennale, the 31st São Paulo Biennale and the 12th Taipei Biennale.

Publications include *Nosso Lar*, Brasilia (Jap Sam Books, 2014), *Stateless Democracy* (With co-editors Dilar Dirik and Renée In der Maur, BAK, 2015), *Steve Bannon: A Propaganda Retrospective* (Het Nieuwe Instituut, 2018) and *Propaganda Art in the 21st Century* (The MIT Press, 2019). Staal completed his PhD research on propaganda art at the PhDArts program of Leiden University, the Netherlands.

COLOPHON

Court for Intergenerational Climate Crimes (CICC)
is a project by Radha D'Souza and Jonas Staal,
commissioned by Framer Framed, Amsterdam.

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(architect); Remco van Bladel (designer); Ashley Maum (researcher and
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Bonin Grosbeak (Vietnamese); Pig-footed Bandicoot (Kabardian);
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