



BRILL

Geologic Testimony: The Fossil as Climate Witness

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Abstract

This essay explores the role of performance in facilitating a testimonial encounter between the human and nonhuman in the context of the climate crisis, focusing on the representation of fossils. Departing from the premise that fossils are objects which invite us to contemplate vast spatio-temporal scales, and identifying a ‘geologic turn’ in contemporary culture, it examines how Radha D’Souza and Jonas Staal’s performative tribunal, *The Court for Intergenerational Climate Crimes* (2021–), addresses the epistemic injustice attending the construction of the human/inhuman binary. I argue that, by placing the fossil on the witness stand, the performance reveals its audience as geopolitical subjects. To do so, the essay aims to construct the novel theoretical framework of ‘material witnessing’, a relational approach to texts which takes into consideration the specificities and histories of matter, while emphasising the affective dimensions of witnessing.

Keywords

geology – tribunal theatre – testimony – climate change – witnessing

1 Re-thinking Representation

The 2015 landmark decision *Urgenda Foundation v State of the Netherlands* marked the first time a court recognised anthropogenic climate change as undeniable. In this lawsuit, environmental action group Urgenda Foundation and 900 Dutch citizens sued the Dutch government for lack of action in the face

of climate change. The court in The Hague ruled that the Dutch state should limit greenhouse gas emissions, the first time this was ordered not for statutory mandates. Following this precedent in climate litigation, the number of climate lawsuits against individuals, corporations and governments since 2015 has more than doubled globally.¹ Despite these developments, current legal frameworks fall short in dealing with climate-related injustice in many ways. As yet, international law does not recognise the notion of ecocide,² and non-human entities have no effective political representation in Europe (Burgers, 2021; Dias, 2022). Corporations and states often evade accountability for their contributions to climate change, as democratic systems are designed to curb citizens' influence on them (Pieterse and Bool, 2021). Responding to these issues, the Rights of Nature movement has made successful efforts to emancipate the political voice of non-human entities: a 2017 court decision in New Zealand granted the Whanganui River its own rights; Ecuador has constitutional rights of nature; and Bolivia has a 'Law of the Rights of Mother Earth'. Europe falls behind regarding the political representation of the non-human, compared to continents where the relational worldviews of indigenous communities have inspired the institutionalisation of rights of nature (Burgers, 2021).

Several recent Dutch art-activist projects combine the spheres of art and law to explore how we can attend to the voice of the nonhuman, notable examples being *The Embassy of the North Sea* (2018–)³ and the *Zoöp Model* (Het Nieuwe Instituut, 2022–). Radha D'Souza and Jonas Staal's *Court for International Climate Crimes (CICC)* joins such efforts as a performative tribunal persecuting climate crimes with evidence brought forward by human witnesses, representations of extinct animals and plants and, of specific interest for this article, ammonite fossils.

The CICC was created by Indian writer, journalist, activist and lawyer Radha d'Souza and Dutch visual artist Jonas Staal, commissioned by *Framer Framed*. Based in the *Framer Framed* exhibition space, it consists of a large-scale installation that provides a location for public hearings. While its first iteration took place in The Netherlands, the project includes a travelling exhibition

1 See <https://www.urgenda.nl/en/themas/climate-case/global-climate-litigation/> for an overview of climate litigation cases worldwide. For in-depth discussion of climate litigation, see Alogna et al. (2021).

2 Proposed as the fifth international crime against peace, ecocide is defined as "extensive damage to, destruction of or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been severely diminished" (Higgins, 2010, para. 1).

3 See www.embassyofthenorthsea.com.

component that has taken it to Germany, Finland and South Korea. Public hearings were held in October 2021 against Dutch multinational companies Unilever, ING, and Airbus, as well as the Dutch state, which were charged with committing ‘intergenerational climate crimes’, like poisoning rivers, funding ecocidal activities, manufacturing destructive weapons, or, in the case of the Dutch state, complicity with the aforementioned through the establishment of Bilateral Trade Agreements. Underpinning the Court is the Intergenerational Climate Crimes Act, an alternate legal framework based on D’Souza’s book *What’s Wrong with Rights?* (2018). This book offers a critique of the neoliberal, individualistic rights frameworks constructed at the advent of the Enlightenment. For the *CICC*, a reduction of rights to individual properties obfuscates the intergenerational and interdependent workings of our shared ecosystems. The *CICC* thus indicts not only past climate crimes, but also those that harm future generations, thereby rejecting the linear, individualistic nature of current legal systems. In keeping with this relational worldview, the court calls on both human and non-human witnesses.

The arena, designed by Staal and architect Paul Kuipers, consists of raised wooden platforms of different heights. The audience, acting in the role of jury, sits against raised wooden backrests, out of which emerge metal rods bearing 65 paintings depicting species of extinct animals and 20 weavings of extinct plants. Each depiction is paired with the word “comrade” in a different language. These constitute the *CICC*’s archival project *Comrades in Extinction*, which documents evidence of “an ancestral ecology” (D’Souza & Staal, 2021, p. 3) of species made extinct by climate crimes during the colonial era, dating back to 1546. The court is also populated by some 30 ammonite fossils from the Moroccan region of Agadir, similarly placed on metal rods. At the court’s centre, four wooden stands overlook a trapezoidal pool of hardened refined oil with a stone ammonite fossil in the middle. The fossils occupy a prominent role in the court through this central positioning as well as their distinct material presence. Their significance was marked by Ashley Maum (2021), member of the *CICC*’s research and coordinating team, who points to the fossils as one of the “different manifestations of oil with distinct time scales” (p. 18). Ammonites not only bring the court into a geological timescale, but remind of the origins of the fossil fuels whose extraction has accelerated the current climate crisis. How can the *CICC*’s framing of the fossil as a witness to climate crimes influence current conceptions of (climate) testimony?

Departing from the premise that fossils are material-semiotic objects that invite us to contemplate vast spatio-temporal scales, this article identifies a “geologic turn” in contemporary cultural works and investigates how an object

like a fossil might act as a witness to climate change. I approach testimony as a form of *representation*, understood in a dual sense of spokesperson and artistic depiction (Latour, 2005; Spivak, 2009/2023).⁴ While non-human entities cannot provide juridical testimony in current legal frameworks, I argue that the arts' affective and speculative capacities can aid in exploring new forms of representation necessitated by the Anthropocene. In doing so, this article contributes to current debates on the representational challenges of climate change. I am particularly interested in the geologic as a framework through which we can enrich understandings of non-human subjectivities. In examining the cultural representation of fossils, this article highlights the testimony of the "inanimate" object, which remains underrepresented in scholarship compared to animal and vegetal testimony. In what follows, I first outline a recent turn towards the geologic in cultural and memory studies. Then, I sketch some recent developments in the field of testimony studies in the context of anthropogenic climate change. Finally, using a framework of "material witnessing", I provide a close reading of the *Court for Intergenerational Climate Crimes* as a case study for "inhuman testimony". Centring the presence of the "inhuman" in the court, I demonstrate how the *CICC's* assembly might emerge as a space of redress for epistemic injustice.

1.1 A Geologic Turn

The rise in publications, exhibitions, and performances dealing with deep time and the geologic from the 2000s onwards has led to the identification of a "geological turn" in art and culture (Ellsworth and Kruse, 2012, p. 6). This coincides with the conceptualisation of the "Anthropocene", a new geological epoch in which human activity is understood to constitute a distinct, destructive geological force on the planet (Crutzen and Stoermer, 2000). In the face of the Anthropocene, scholarship at the intersection of geology and the humanities suggests adopting a more geologic sensibility to grapple with its attendant crises (Bjornerud, 2018; Yusoff, 2018). This "geologic lens" has also impacted on memory studies, as scholars work to expand the field's spatio-temporal scope and challenge its human-centred distinctions (Knittel, 2023). Attending to geologic objects, like fossils, could provide new ways to illuminate an entangled existence.

4 Latour (2005, pp. 6–7) identifies three practices of representation: 1) testimonial/legal; 2) scientific; and 3) artistic. This article foregrounds the first and the last. Similarly, Spivak discusses the dual sense of representation as "*vertreten*" (speaking for) and "*darstellen*" (re-presenting), emphasising the entanglement of speaking for and portraying.

Fossils are the “preserved trace of an organism or event” (Norell, 2003). They not only provide knowledge about ancient life, but about geophysical events that have shaped the earth, allowing palaeontologists to understand the unprecedented impact of human activity on the climate in the present (Cronin, 2009). The geological record hinges on index-fossils, which are “read” by sedimentologists to determine layers in the Earth’s crust. This indexical function points to their material-semiotic status and invites questions about the epistemological function of fossils in the Anthropocene. As indexical objects consisting of mineralised organic remains, artificial substances and/or mere imprints, fossils constitute a distinct type of material object that troubles binaries like organic/inorganic, human/non-human, presence/absence, past/future and material/semiotic. In this sense, they are able to “connect bodies across time” (Bezan, 2021, p. 474), engaging in what Heidegger calls “gathering” (*sammeln*): a cultivating force that brings nature, people and objects in relation with each other, revealing the formerly hidden (Knowles, 2021, p. 349). Thus, fossils could play an important role in disclosing socio-epistemic relationships between the human and non-human.

Several thinkers have noted the fossil’s special temporal status in its ability to disrupt anthropocentric notions of history, drawing attention to a ‘deep time’ spanning before and after humankind (Foucault, 1970/2005; Meillassoux, 2008; Morton 2013). For instance, speculative realists aim to separate reality from human perception and understand the fossil as occupying a privileged epistemic position with regards to certain events and phenomena (p. 10). These fossils then function not merely as evidence, but as *witnesses*.

The idea that fossils and other mineralogic entities witness and communicate knowledge has been central to indigenous epistemologies long before the advent of geology and paleontology in the West, yet fossils have also functioned as a tool of colonisation (Mayor, 2005; Povinelli 2016; Schuller, 2016; Yusoff, 2018). In *A Billion Black Anthropocenes or None* (2018), Kathryn Yusoff demonstrates how fossils became deeply intertwined with the “questions of origins, processes of racialization through speciation and notions of progress” (p. 5) underpinning the discipline of geology from its inception, implicating them in the legacies of colonialism and racism.

1.2 *Witnessing Climate Change*

There is scientific consensus on the theory of Anthropogenic Climate Change (ACC), that notion that human activity, such as burning fossil fuels, is causing rapid changes to the climate that will result in severe environmental damage. Yet the phenomenon remains difficult to communicate (Moser, 2016). As an epistemological resource that mediates between temporalities, persons

and spaces, testimony⁵ is a mode of addressing the challenges of representing anthropogenic climate change and plays a crucial role in the production and transmission of knowledge about the phenomenon (Coady, 2019). Moreover, acts of witnessing have been central in calls for recognition and action in the wake of (environmental) injustice (Jensen and Jolly, 2014; Schaffer and Smith, 2004). As Michael Richardson (2020) notes, “[t]o bear witness is to be placed under an injunction to act” (p. 340). The question of witnessing climate change, then, is an urgent and moral one, because it is tied to our ability to actively respond to it. Still, testimony from climate experts faces significant obstacles in its acceptance as knowledge by policymakers (Moser, 2016; Poletti, 2021). While experts testify to the vast spatio-temporal scales of climate change and its human-made causes, these are often mediated in abstract forms such as graphs, statistics, and models (Clark, 2015), which lack the affective dimension needed to combat widespread psychological distancing regarding the crisis (Hamblyn, 2009; Moser, 2016).

Personal eyewitness accounts of climate change supplement expert testimony by speaking to local effects of global warming, though they are easily dismissible by climate sceptics as isolated events. As a sub-category of eyewitness testimony, survivor testimony speaks to climate change’s traumatic events on individuals and communities, such as extreme weather events and natural disasters. Such accounts of violence and personal suffering are highly affective yet may paradoxically induce a sense of doom and helplessness, preventing meaningful action by secondary witnesses (Hamblyn 2009). Rob Nixon (2011) points out that privileged media attention given to testimony to such “spectacular” and sudden violence obfuscates the less immediately visible, slowly unfolding violence of the Anthropocene, which often disproportionately affects the disempowered. Moreover, these frameworks do not sufficiently account for the violence wrought on non-human entities. How does one witness, for example, the extinction of species, or the pollution and destruction of ecosystems caused by the burning of fossil fuels? These epistemological limitations call for a different type of witnessing climate change. Due to their imaginative and affective capacities, cultural and literary works are sites where this problem of testimony is played out, and where different forms of witnessing climate change are constructed (Ghosh, 2017). Literary testimony specifically is marked by the aim “of not only learning it but also *experiencing* it” (Delaperrière, 2014, p. 45; em-

5 Testimony is generally conceived of as a socio-epistemological practice that constitutes the communication (and thus the [re-]mediation) of knowledge about an event by an eyewitness (or subject-witness) to a secondary witness (or audience-witness) (Coady, 1994; Derrida, 2000; Lackey, 2008; Thomas, 2009).

phasis mine). This can extend to any media that rely on narrative and aesthetic to transfer experiences, such as theatre. Theresa May argues that theatre, as an immediate, embodied and communal form of storytelling, forms “a crucial tool of democracy for the Anthropocene” in its world-making capacity (2022, p. 166). Much has been written about the parallels between politics and performance, on the theatrical aspects of the courtroom as a place where the law is performed and enacted, and the political potential of the theatre play (Boal, 2005; Nellis, 2021a, b and c; Pittas, 2023). Performative tribunals have historically functioned as spaces where alternative forms of justice are brought about by giving voice to those who have not been heard. In this sense, they function as “thought experiments” (Nellis, 2021b, n.p.), enacting ethical, political and social issues. Although linguistic utterances spoken in the theatre do not have the “specific coercive power to change reality directly” (Nellis, 2021a, p. 160), I argue that approaching the theatrical tribunal as a form of assembly reveals how the bringing together of bodies can form an expressive, political speech act.

1.3 *Material Witnessing: A Framework*

In examining the representation of fossils in the *CICC*, this article develops the novel theoretical framework of “material witnessing”, drawing on testimony theory, new materialist thought and critical race theory to devise a relational approach to texts which accounts for the specificities and histories of matter, while emphasising the affective dimensions of witnessing.⁶ Moving beyond the theatre as a merely representational medium, foregrounding “affective relationships [...] embodiment and ephemerality” (Nellis, 2021c, p. 3), the article uses an eco-dramaturgical method to parse testimonial relations in the *CICC*.

In *Notes Towards a Performative Theory of Assembly* (2015) – which Staal’s artist’s practice (2017) explicitly engages with – Judith Butler argues that:

when bodies assemble on the street, in the square, or in other forms of public space [...] they are exercising a plural and performative right to appear, one that asserts and instates the body in the midst of the political field, and which, in its expressive and signifying function, delivers a bodily demand for a more liveable set of economic, social, and political conditions no longer afflicted by induced forms of precarity.

p. 11

6 I draw on Susan Schuppli’s operative concept of the “material witness” (2020) here. While Schuppli focuses on media technologies as evidentiary objects whose testimonies can be forensically decoded, I am primarily interested in “material witnessing” as a framework to approach relations of witnessing in texts.

Assembly, for instance, in the form of a protest or tribunal, forms an embodied act of testimony by those whom the dominant legal, political and social systems fail to recognise as subjects, constituting a demand “to be recognized, to be valued [...] exercising a right to appear, to exercise freedom, and [...] a liveable life” (Butler, 2015, p. 26). To understand how such unrecognised groups come about, Butler examines the formation of the norm of the human, showing how the category of human is “differentially produced” at the expense of the non-human, inhuman or other-than-human, which emerge as its “refuse or debris” (2015, p. 41). Yusoff (2018) traces these processes back to the inscription of “the inhuman” as a mode of subjectivity that became central to the colonial project of geologic extraction, land theft and slavery, relegating racialised subjects to the inhuman status of inert, extractable resources. More precisely:

It is the grammar of geology – the inhuman – that establishes the stability of the object of property for extraction. The process of geologic materialization in the making of matter as value is transferred onto subjects and transmutes those subjects through a material and color economy that is organized as ontologically different from the human (who is accorded agency in the pursuits of rights, freedom, and property).

p. 71

These insights into which lives “count” as lives within our legal, political and social systems, and which are relegated to “non-life”, reveal testimony as a profoundly political practice whose knowledge-making is deeply entangled with historically established notions of the “subject”. Indeed, research on epistemic injustice shows how “testimonial injustice” (Fricker, 2007, p. 1) occurs when certain subjects are deemed more credible than others because of identity prejudice, and life-writing scholars show that testimonial transactions as always caught up with the conceptualisation of the human (Whitlock, 2015; Connor 2020; White and Whitlock 2020). Yusoff’s argument also unveils the entanglement of the earth’s exploitation with the formation of the (in)human subject. She argues that the division of life/non-life is “foundational to New World geographies” (2018, p. 5) that have relied on the category of the inhuman, as both mineral and racialised subject position, to designate certain forms of existence as extractable resources. Therefore, the relationship of life to non-life lies at the core of a racialised capitalism, which shares its beginning with a geology iterated through a normative materialism concerned with the ordering of bodies through time. Yusoff’s argument reveals materiality as a political category, which raises the question of what it means to frame the fossil as witness in a performative tribunal for climate crimes.

2 Analysis

2.1 *Testimonial Discourse*

Theologist Günter Thomas (2009) performs a historical analysis of witnessing by tracing its twin roots in legal and religious contexts, and defines witnessing as a performance in which a “distant, otherwise inaccessible, reality is performatively made ‘present’ or ‘real’” (p. 98). Whereas the legal witness testifies to “an empirical reality”, a religious witness testifies to an inner truth, some belief that opposes the ideology of the dominant order (p. 97). The *CICC* adopts this religious register of inner truth and subverts it through the promotion of a relational framework in which the rights and interests of the human and non-human are entangled. In doing so, the *CICC* counters the Western epistemological tradition of witnessing foundational to current legal frameworks. In the final verdict on the hearing centring the Dutch state, religious witnessing is evoked through the framing of the prosecutors as “truth-seekers”, rather than complainant or plaintiff:

A person bringing a case to a Creation-centred court does so not for personal/group benefits or to enforce a contract or statute but they seek some Truth about Creation that has been lost or forgotten or deliberately discarded and/or disrespected or abused.

D'SOUZA & STAAL, 2022, p. 22

As privileged observers, witnesses are called to provide knowledge of this “Truth about Creation”. Their aim is thus not (merely) to settle on specific crimes, but to give proof of an alternate reality to the one upheld by the dominant order – the Dutch state. Thus, the knowledge produced in these testimonial exchanges is not only that of a world in which all of creation has an equal right to survival, but also the possibility of an alternative legislative system in which all creation may act as a political subject. In a Western model, the only witness could be a human(ist) subject. By bringing the law to trial, the *CICC* questions the legitimacy of a legal framework that prevents some from speaking yet gives “legal persons” like companies protection from prosecution. In creating an alternative juridical space and legal framework, the *CICC* thus grants itself the authority to formally acknowledge witnesses otherwise not accepted into the legal system. By integrating discourses of religious testimony into a new legal framework, the *CICC* both unites and undermines the religious and legal traditions of witnessing. As a result, it can facilitate a space where the testimony of the “inhuman” is recognised.

The paintings and weavings of the *Comrades in Extinction* present one instance of inhuman testimony. In the publication accompanying the project, D'Souza and Staal describe these witnesses as follows:

The CICC acknowledges our non-human ancestors as fellow ecosystem workers. Rather than seeing them as 'extinct', the CICC recognises them as martyrs in the struggles for existence of all species and a biosphere for all [...] This publication consists of evidence. Evidence of intergenerational climate crimes in the form of the plant and animal martyrs of racial-ecocidal capitalism [...] those in whose name we prosecute intergenerational climate crimes perpetrated by states and corporations, those in whose name we demand to be future ancestors to living, caring, comradely worlds.

2021, p. 3

The martyr-witness, a manifestation of the religious witness, is known as one who dies under persecution for their faith (Thomas, 2009, p. 95). The spokespeople of the CICC frame the extinct species as "those in whose name we prosecute", representing them not only artistically but politically. The status of extinction and the status of martyrdom are juxtaposed here, implying that extinct species have an afterlife in which they are engaged in "the struggles for existence" (D'Souza and Staal, 2021, p. 3). This blurring of life and death aligns with the court's rejection of linear notions of justice and time, revealing how past dyings materialise in the world of the present. Furthermore, by framing these animals and plants as "fellow ecosystem workers", the CICC constructs an affective relation, uniting them with the audience in "struggles for existence". The absent species are re-embodied in their artistic mediations, allowing the audience to bear witness to their silent deaths and suffering. The CICC appropriates the conventions of taxonomic classification by replacing scientific captions with the word "comrade", flattening the separation and hierarchy between human and inhuman, uniting the bodies in the court in a shared precarity. This reflects Jodi Dean's (2018) theorisation of the comrade as "an emancipatory egalitarian figure of belonging" (p. 101) uniting those opposed to oppressive systems (p. 103). Thus, the use of the term in the CICC constructs *relations* based on a shared condition of precarity. Instead of presenting photographs or even taxidermied specimens of individual animals and plants, which would frame them as forensic evidence, the CICC mediates the comrades into paintings and weavings, which enacts an abstracting move that transforms them into representative icons of their species, something that may, in turn, prompt the audience members to con-

sider *themselves* as representative of their species, a potential fallen comrade. Conversely, this abstracting move runs the risk of eliding the reality of human responsibility for the sixth mass extinction. While a broader view of the “we” in the face of climate change might call on a collective responsibility to act, it also has the potential to obscure differences and material relations, mobilising these extinct species into a struggle that they never actively chose.

2.2 *The Inhuman Testimony of Ammonite Fossils*

It is not just extinct animals and plants whose bodies “speak” in the court: ammonite fossils occupy a distinct witness-position, mediating various timescales, materialities and subjectivities. Ammonites are a fossilised species of squid, an index fossil providing geological evidence of the fifth mass extinction at the end of the Cretaceous. They are recurring objects in Staal’s work, which explores the relationship between art, democracy and propaganda, where they are presented as political agents occupying a privileged epistemic position with regard to vast spatio-temporal scales.⁷ The *CICC* frames the fossils as witnesses, describing them as “evidence of an extinction of the past [...] acting as witnesses to the extinction of a present” (D’Souza & Staal, 2020). D’Souza and Staal call on the audience to “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” (2021). Here, fossils emerge as the embodiment of “earth memories”, having witnessed and experienced prehistoric mass extinctions, as well as exploitative practices of a colonialism that, in Yusoff’s words, weaponises and extracts value from the inhuman. Specifically, fossil fuels consist of fossilised remnants of beings that died millions of years ago. In this way, fossils also point to the present fossil fuel regimes that exploit and render disposable human as well as non-human lives, a regime that forms a continuation of the seminal determination of inhumanity in colonial regimes of resource extraction. As mediators of this inhuman memory in the archive of the earth, fossil testimonies “bring into presence” vast temporalities. These fossils thus “gather” and mediate various timescales: the geotrauma of a mass extinction in the deep past; the (slow) violence of a fossil-fuelled present; and the future extinction set in motion by this present, revealing us as “fossils in the making” (D’Souza & Staal, Concept Note, 2020). Through this gathering of timescales, fossils testify to the ways in which various lives are transformed to the inhuman status of inert, extract-

⁷ See Staal, *Interplanetary Species Society* (2019) and *Training for the Future* (2022).

able resources. This becomes clear in D'Souza's opening of the jury verdict against the Dutch state, which establishes a genealogy between the fossil and the humans present in court, framing fossils as mineralised remains of our ancestors:

Fossils are present amongst us. For millions of years, our ancestors, animals and plants, lay buried in the recesses of time. Until modern states and corporations violently excavated and extracted them to burn our futures. This violence leaves generations of animals, plants, fungi, protists and monerans without resting sites and without life-sustaining inheritances from their ancestors.

FramerFramed, 2022, 00:04:48–00:05:22

As such, the fossils provide testimony to those “living worlds” caught up in processes of geologic extraction, but also to the fact that we are *geologic subjects* who capitalise on “previous fossilisations” (Yusoff, 2013, p. 781). This is underscored by their proximity to oil, a prominent fossil fuel, in the court. Bringing the geologic into the political assembly thus reminds us of the non-organic dimensions of life that shape our lives, as the fossil testifies to all presences in the court as *geologic subjects*. To understand how this works on a material level, the following sections return to the fossil as one of several bodies in the affective arrangement of the installation.

2.3 *Infrastructures of Witnessing*

While often grouped with the artworks of the *Comrades in Extinction*, the fossilised presences are not representations in the artistic sense. The former picture extinct species, yet a fossil is neither a living being nor a picture of it – it is the mineralised remains of an animal: its “corpse” turned into stone (Michaels, 2006, p. 440). Therefore, the testimonial role of these fossils is distinguished from that of the *Comrades* through their materiality. Ammonite fossils occupy a distinct position in the court, not only through their mode of representation but through their placement, with the central pool of oil bearing a stone ammonite fossil. The courtroom's layout directs all seated audience members to face this central fossil, regardless of their location. Staal thus constructs a political space that centres the geologic. Yusoff points to those:

infrastructures of geologic mobility that far outstrip, but are a direct consequence of, conventional forms of material communication and transnational infrastructures; geo-logics of social and material expulsions whose visible effects have been hidden in plain sight all along, under-

stood as the waste and excess of normative modes of agency, architectural planning and capital accumulation.

2017, n.p.

In other words, our sociopolitical infrastructures are subtended by an underground architecture of extraction, exploitation and violence (for example, mining, fossil fuel excavation and waste sites). The *CICC* frames ammonite fossils as subject-witnesses that testify to fossil fuel regimes, mass extinction and a geological timescales, yet they simultaneously form an integral part of the material infrastructure of the court. Hence, they draw attention to the ways in which the architectural and material make-up of our political spaces influences the construction of (political) subjecthood. As objects usually found in the normative geologic context of the natural history museum, textbook or documentary, the performative court transforms fossils from inert objects into subjects omnipresent in everyday architectures and infrastructures, reminding us how “no geology is neutral” (Yusoff, 2018, p. 108). It thus performatively emancipates the inhuman.

The fact that the tribunal takes place in an exhibition space instead of an existing courtroom not only underwrites its refusal to adhere to this part of the sociopolitical infrastructure, but emphasises the important role of the imagination and its world-making capacities. Whereas the courtroom has a predetermined set-up that guides the proceedings, the exhibition space, though not entirely free from this social-political infrastructure, provides a space for imagining and enacting alternative structures. As for the material make-up of the installation, the *CICC* primarily uses eco-pressed wood, textile weavings, gouache paintings and metal, avoiding fossil-fuelled materials such as plastic or other synthetics. Examining the ecological footprint of the theatre as a material practice (May, 2022), Staal's use of sustainable and reused materials enacts both a formal and visual cohesion across his political project, and a sustainable artist's practice whose material conditions enact its message. Conversely, the *CICC*'s nature as a *travelling* exhibition raises questions around its footprint – how sustainable are its modes of transport? What of the energy used by the looping video in the empty space? These caveats are not meant to discredit the project, but showcase the ways in which politics, art and infrastructure are entangled through their materiality.

2.4 *Politics of Presence*

The video recording of *Comrades Past, Present and Future vs. the Dutch State* shows how the affective arrangement of bodies in the courtroom works “in motion”. A striking moment in the trial is when chairing judge D'Souza calls on

the defendants of the Dutch state to speak and is met with silence (2021, October 28, 1:47:26–1:49:30). Specifically, she calls on the Dutch Ministry of Foreign Trade and the Ministry of Economic Affairs and Climate to come forward on behalf of the state, and, when they do not, proceeds to call on any person present to rise in defence of the Dutch state. Staal, in the absence of the defence, then calls for a twenty-minute recess. Before resuming the proceedings, he explains to the jury that the Dutch state received a summons to the court and provided confirmation of this receipt. After the next claim is presented, this performance is repeated once more.

The silence filling the room at the summons of the defendants is affectively charged. D'Souza's rhetoric and the implementation of the recess performatively highlight an absence of bodies in the room. In the closing statement, D'Souza remarks that no one stood up to speak on behalf of the government, pointing out how, despite their Dutch citizenship, the jury must not have felt they represented the state. This play with bodily presence and absence gets at the heart of the communicative form of witnessing. As Thomas writes: "Physical co-presence is central to witnessing, and the possibility of substituting such bodily presence with media is crucial for [...] the cultural form" (p. 98). It also enacts a crucial point of the *CICC*: granting legal personhood to corporations and states comes at the expense of "real" lives harmed by these instances, since it is nearly impossible for individuals to prosecute corporations under the current legal system.

While the inhuman witnesses are never called on to speak or be spoken for, they form an undeniable physical presence in the room, which is highlighted when D'Souza asks the jury, "how many more of these images are you willing to see?" (5:05:08–5:05:45), establishing a direct, material relationship between the audience members and the number of extinct species "present" in the room. The number of species that will disappear from the world correlates to the number of paintings and weavings present in the courtroom. Here, the physical co-presence of human and non-human bodies changes the affective atmosphere in the room. This insistence on liveness and presence, central to both courtroom and theatre, underwrites Butler's argument about the bringing together of bodies as a political statement.

Although the justice performed in the *CICC* is legally meaningless, that is, it cannot force the State to enact this justice as in the *Urgenda* case, the *event itself* forms a testimony. The responsibility for executing the final verdict is laid with the "Comrades of The Netherlands and elsewhere" to "use all non-violent collective means at their disposal to organise to enforce this order" (D'Souza & Staal, 2022, p. 27). Again, there is emphasis on the coming together of bodies as an act that can enforce change. Thus, the *CICC* provides a definite verdict

which can be carried out, affirming its own legitimacy and directing attention to the power of the performative statement to enact change. More than a performance piece, the *CICC* thus creates a space for political assembly that transcends the temporal duration of the performance. In this sense, it can be seen as a people's tribunal which extends "people" to include non-human entities.

A common argument made against the potential of politically engaged art is that it only reaches an audience that is already convinced of its arguments; in other words, it is preaching to the choir. Who will attend an art performance like the *CICC* that does not already care about anthropogenic climate change in some way? The jury vote is consistently unanimous, and the defence is never present; is it no more than a show trial? Composition scholar Uri Agnon makes an argument about a galvanising capacity of political art, noting that "anyone who has worked in a choir knows that a choir actually needs some preaching in order to sing powerfully and harmoniously" (2021, p. 59). As the analysis of the *CICC* has shown, the absence of the defence forms an integral part of the performance, not least because their very presence in the room would be an admission of the validity of the court. It appears to be not so much about convincing those with different views as it is about fostering an assembly, community and mobilisation.

A framework of material witnessing reveals how the *CICC* reframes fossils as witnesses not merely by placing them on the witness stand, but by formally, architecturally, discursively and materially constructing a space in which they can act as such. Examining the *CICC* through this framework provides a starting point for exploring the potential of the fossil as a carrier of meaning for deepening our understanding of non-human subjectivities; a material metaphor that enfolds multiple temporalities, socio-historical events, geophysical processes and materialities.

The re-emergence of fossils in art and literature over the past 20 years demonstrates how the Anthropocene discourse imbues these geologic objects with renewed relevance: they are an interface between our individual lives and the deep time perspective, making past transformations in climate and mass extinctions tangible and felt, confronting us with the actuality of anthropogenic climate change and the sixth mass extinction. On the other hand, they invite us to consider the traces that our species inscribes into the earth and the atmosphere, traces that will, like fossils, remain into the deep future. In analysing Radha D'Souza's and Jonas Staal's *Court for Intergenerational Climate Crimes*, this article has shown how cultural works like tribunal theatre may testify to climate change's heterogeneous manifestations, large spatio-temporal scales and silent dyings by reframing fossils as witnesses. In doing so, it joins a rising chorus of voices emerging from the environmental humanities in as-

serting that the geologic is not a dusty, far-away realm, not a mere background to human activity, but an active shaper of who and what we are. A failure to recognise this is a failure to comprehend the underpinnings of, and potential answers to, the environmental and social crises we find ourselves in.

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Works Cited

- Agnon, Uri. (2021). On political audiences: An argument in favour of preaching to the choir. *Tempo*, 75(296), 57–70.
- Alogna, I., et al. (2021). *Climate change litigation: Global perspectives*. Brill.
- Bezan, Sarah. (2021). CanLit's ossiferous fictions: Animal bones and fossils in Margaret Atwood's *Life Before Man* and Carol Shields's *The Stone Diaries*. In S. McHugh et al. (Eds.), *The Palgrave handbook of animals and literature* (pp. 473–486). Palgrave. https://doi.org/10.1007/978-3-030-39773-9_33.
- Bjornerud, M. (2018). *Timefulness: How thinking like a geologist can help save the world*. Princeton University Press.
- Boal, A. (2005). *Legislative Theatre: Using Performance to Make Politics*. Routledge.
- Burgers, L., & den Outer, J. (Eds.) (2021). *Compendium for the rights of nature: Case studies from six continents*. Embassy of the North Sea.
- Butler, J. (2015). *Notes toward a performative theory of assembly*. Harvard University Press.
- FramerFramed. (2022, July 11). *CICC: Jury verdict – CICC vs. the Dutch State* [Video]. YouTube. Accessed 28 July 2025. www.youtube.com/watch?v=07KBEws7AhI&ab_channel=FramerFramed.

- Coady, C. A. J. (1994). *Testimony: A philosophical study*. Oxford University Press.
- Coady, D. (2019). Epistemology and Climate Change. *The Routledge handbook of social epistemology* (pp. 466–473). Routledge.
- FramerFramed. (2021, October 28). *Comrades Past, Present and Future vs. the Dutch State* [Video]. *YouTube*. Accessed 28 July 2025. www.youtube.com/watch?v=LOZz-kZkziOY&ab_channel=FramerFramed.
- Clark, T. (2015). Scale Framing. *Ecocriticism on the Edge: The Anthropocene as a Threshold Concept* (pp. 71–96). Bloomsbury.
- Connor, E. (2020). 'If a tree falls ...': Posthuman testimony in C. D. Wright's *Casting Deep Shade*. *a/b: Auto/Biography Studies*, 35(1), 123–143. <https://doi.org/10.1080/08989575.2020.1720183>
- Cronin, T. M. (2009). *Paleoclimates: Understanding climate change past and present*. Columbia University Press.
- Crutzen, P., & E. F. Stoermer. (2000) Have we entered the “Anthropocene”. *International Geosphere-Biosphere Program Newsletter*, 1(41), 17–18.
- D'Souza, R., & Staal, S. (2021). Catalogue: Court for intergenerational climate crimes (EN). *Framer Framed*. Accessed 28 July 2025. <https://framerframed.nl/wp-content/uploads/2021/09/Catalogue-Court-for-intergenerational-Climate-Crimes-EN.pdf>.
- D'Souza, R., & Staal, S. (2021). Comrades in extinction [Exhibition]. *Framer Framed*. Accessed 28 July 2025. www.jonasstaal.nl/site/assets/files/2109/comrades_in_extinction.pdf.
- D'Souza, R., & Staal, S. (2021, October 28). Public hearing I: The Dutch State. *Framer Framed*. Accessed 28 July 2025. <https://framerframed.nl/wp-content/uploads/2021/10/Public-Hearing-I-The-Dutch-State.pdf>.
- D'Souza, R., & Staal, S. (2021–ongoing) *The Court for Intergenerational Climate Crimes*, [Exhibition]. *Framer Framed*. Accessed 28 July 2025. <https://framerframed.nl/en/exposities/court-for-intergenerational-climate-crimes/>.
- D'Souza, R., & Staal, S. (2022). Verdict: *CICC vs. The Dutch State*. *Framer Framed*. Accessed 28 July 2025. https://framerframed.nl/wp-content/uploads/2022/06/CICC_Final-Verdict.pdf.
- Dean, J. (2018). Comrade: The zero-level of communism. *Stasis*, 6(2), 100–117. <https://doi.org/10.33280/2310-3817-2018-6-2-100-117>.
- Delaperrière, M. (2014). Testimony as a literary problem. *Teksty Drugie*, 2, 42–54.
- Derrida, J. (2000). *Demure: Fiction and Testimony. The Instant of My Death / Demeure: Fiction and Testimony* (E. Rottenberg, Trans.). Stanford University Press.
- Dias, T. (2022, April 13). Court for Intergenerational Climate Crimes. *Texte Zur Kunst*. Accessed 21 May 2024. www.textezurkunst.de/en/articles/tobias-dias-court-report/.
- Ellsworth, E., & Kruse, J. (2012). *Making the geologic now: Responses to material conditions of contemporary life*. Punctum Books.
- Foucault, M. (2005). *The Order of Things*. Routledge. (Original work published 1970)

- Fricker, M. (2007). Testimonial injustice. In *Epistemic Injustice: Power and the Ethics of Knowing* (pp. 9–17). Oxford University Press.
- Ghosh, A. (2017). *The great derangement: Climate change and the unthinkable*. University of Chicago Press.
- Hamblyn, R. (2009). The whistleblower and the canary: Rhetorical constructions of climate change. *Journal of Historical Geography*, 35(2), 223–236. <https://doi.org/10.1016/j.jhg.2008.09.006>.
- Het Nieuwe Instituut. (2022.) *Zoöp Model*. Accessed 18 August 2025. <https://nieuweinstituut.nl/en/projects/zoop/zoop-model>.
- Higgins, P. (2010). *Eradicating ecocide: Laws and governance to prevent the destruction of our planet*. Shephard-Walwyn.
- Jensen, M., & Jolly, M. (Eds.). (2014). *We shall bear witness: Life narratives and human rights*. University of Wisconsin Press.
- Knittel, S. C. (2023). Ecologies of violence: Cultural memory (studies) and the genocide–ecocide nexus. *Memory Studies*, 16(6), 1563–1578. <https://doi.org/10.1177/17506980231202747>.
- Knowles, A. (n.d.). Gathering (Sammeln, Sammlung). In M. A. Wrathall (Ed.), *The Cambridge Heidegger Lexicon* (pp. 349–351). Cambridge University Press.
- Lackey, J. (2008). *Learning from Words: Testimony as a Source of Knowledge*. Oxford University Press.
- Latour, B. (2005). From realpolitik to dingpolitik: Or, how to make things public. In B. Latour & P. Weibel (Eds.), *Making things public: Atmospheres of democracy* (pp. 4–31). MIT Press.
- Maum, A. (2021). From the *Court for Intergenerational Climate Crimes*: The lives and deaths of oil. *Kunstlicht Magazine*, 15–25. Accessed 28 July 2025. https://framer-framed.nl/wp-content/uploads/2021/11/AM_CvdW_42_2021_vol3-4.pdf.
- May, T. J. (2022). Kinship and community in climate-change theatre: Ecodramaturgy in practice. *Journal of Contemporary Drama in English*, 10(1), 164–182. <https://doi.org/10.1515/jcde-2022-0011>.
- Mayor, A. (2005). *Fossil legends of the first Americans*. Princeton University Press.
- Meillassoux, Q. (2008). *After finitude: An essay on the necessity of contingency* (Ray Brassier, Trans.). Continuum.
- Michaels, W. B. (2006). Photographs and fossils. In J. Elkins (Ed.), *Photography theory* (pp. 431–50). Routledge.
- Morton, T. (2013). *Hyperobjects Philosophy and Ecology after the End of the World*. University of Minnesota Press.
- Moser, S. C. (2016). Reflections on climate change communication research and practice in the second decade of the 21st century: What more is there to say? *WIREs Climate Change*, 7, 345–369. <https://doi.org/10.1002/wcc.403>.

- Nellis, S. (2021a). All rise! Jurisdiction as performance/performative language. *Forum Modernes Theater*, 32(2).
- Nellis, S. (2021b). Enacting law. *Lateral*, 10(1).
- Nellis, S. (2021c). Theatre strike for climate: Lending a voice to nature in tribunal theatre. *Critical Stages (Paris)= Scènes Critiques*, 23. Accessed 21 May 2024. <https://hdl.handle.net/1854/LU-8714477>.
- Nixon, R. (2011). *Slow violence and the environmentalism of the poor*, Harvard University Press.
- Norell, M. A. (2003). Q: What is a fossil? *Science and Children*, 40(5), 20. ProQuest, www.proquest.com/scholarly-journals/q-what-is-fossil/docview/236933503/se-2. Accessed 18 August 2025.
- Pieterse, J., & Bool, C. (2021). Introduction. *Catalogue Court for Intergenerational Climate Crimes (EN). Framer Framed*, 4–5. Accessed 28 July 2025. <https://framerframed.nl/en/court-for-intergenerational-climate-crimes/publicaties/catalogue-court-for-intergenerational-climate-crimes-en/>.
- Pittas, K. (2023). The art of (re)-assembling: Performing democracy in and through space. In A. Schad-Spindler et al. (Eds.) *Konfliktuelle kulturpolitik* (pp. 95–111). https://doi.org/10.1007/978-3-658-40513-7_6.
- Poletti, A. (2021). Youth life writing, networked media, climate change: The challenge of testimony to the future. *European Journal of Life Writing*, 10, 119–134. <https://doi.org/10.21827/ejlw.10.38166>.
- Povinelli, E. A. (2016). *Geontologies: A requiem to late liberalism*. Duke University Press.
- Richardson, M. (2020). Introduction: Affective witnessing as theory and practice. *Parallax*, 26(3), 235–253. <https://doi.org/10.1080/13534645.2021.1883301>.
- Schaffer, K., & Smith, S. (2004). *Human rights and narrated Lives: The ethics of recognition*. Palgrave Macmillan.
- Schuller, K. (2016). The fossil and the photograph: Red cloud, prehistoric media, and dispossession in perpetuity. *Configurations*, 24(2), 229–261. <http://doi.org/10.1353/con.2016.0008>.
- Schuppli, S. (2020). *Material witness: Media, forensics, evidence*. MIT Press.
- Spivak, G. C. (2023). Can the subaltern speak? In *Imperialism* (pp. 171–219). Routledge. (Original work published 2009).
- Staal, J. (2017). Assemblism. *e-flux Journal*, 80. Accessed 21 May 2024. www.e-flux.com/journal/80/100465/assemblism/.
- Staal, J. (2019). *Interplanetary species society* [Exhibition]. Reaktorhallen, Stockholm, Sweden. Accessed 21 May 2024. www.jonasstaal.nl/projects/interplanetary-species-society/.
- Staal, J. (2022). *Training for the future: we demand a million more years* [Exhibition].

- Thomas, G. (2009). Witness as a cultural form of communication: Historical roots, structural dynamics, and current appearances. In P. Frosh & A. Pinchevski (Eds.), *Media witnessing: Testimony in the age of mass communication* (pp. 89–111). Palgrave.
- Urgenda v Netherlands*, Urgenda, Dutch Supreme Court (2019, December 20). Accessed 28 July 2025. www.urgenda.nl/wp-content/uploads/ENG-Dutch-Supreme-Court-Urgenda-v-Netherlands-20-12-2019.pdf.
- White, J., and Whitlock, G. (2020). Life: Writing and Rights in the Anthropocene, a/b: Auto/Biography Studies, 35(1), 1–12. <https://doi.org/10.1080/08989575.2020.1722376>
- Whitlock, G. (2015). *Postcolonial life narratives: Testimonial transactions*. Oxford University Press.
- Yusoff, K. (2013). Geologic life: Prehistory, climate, futures in the Anthropocene. *Environment and Planning D: Society and Space*, 31(5), 779–795.
- Yusoff, K. (2017). Epochal aesthetics: Affectual infrastructures of the Anthropocene. *e-flux*. Accessed 21 May 2024. www.e-flux.com/architecture/accumulation/121847/epochal-aesthetics-affectual-infrastructures-of-the-anthropocene/.
- Yusoff, K. (2018). *A billion black Anthropocenes or none*. University of Minnesota Press.