

(Il)legal Bodies: Activism, Climate Fictions, Climate Culling¹

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<https://ellids.com/archives/2024/12/6.4-Forum-Hay.pdf>

When the non-violent environmental protest group Extinction Rebellion (XR) was created in late 2018, I was completing a Masters in Research in Science Fiction² Literature. Although initially nervous, I understood the urgent need to non-violently protest the lack of governmental action on the climate and ecological crisis (as it has since become known).³ In November 2018, I took a copy of Jeanette Winterson’s *The Stone Gods* with me to London, where I was joined by thousands of fellow activists on the streets around the Houses of Parliament and Downing Street, many dressed as animals, with banners and flags protesting the sixth mass extinction⁴ and ongoing anthropogenic climate-related genocides across the globe.

Within ten minutes of reaching the centre of the city, I witnessed the arrest of one activist “locking on” to a section of scaffolding which he’d wheeled into a junction already overflowing with exuberant protestors. Winterson’s climate fiction had instilled in me a sense of the cyclicity of human hubris on the scale of planetary extinction—although it was deeply inspiring to witness this popular uprising of ordinary people who understood the endangerment of all varieties of life in the Anthropocene, it rapidly became apparent that concerted revolution against extinction was to be subject to biopolitical disciplining.

For Foucault, populations in aggregate always entail illegality, due to the varying positionalities, actions, and interactions of their constituent subjects (100). As this indicates, political hegemony is deceptively fragile, resting upon a façade of mass compliance. Subsequently, for the ruling order, biopolitics or “[d]isciplinary normalization consists first of all in positing a model, an optimal model that is constructed in terms of a certain result, and the operation of disciplinary normalization consists in

¹Acknowledgement: I am deeply grateful to two fellow activists for providing feedback on this article in draft form, and also to its anonymous peer reviewer.

²Hereafter, SF.

³The declaration of a climate crisis by the UK Parliament in 2019 remains one of the most significant wins of XR to date. See, Taylor, Matthew. “The Extinction Rebellion Scorecard: What Did It Achieve?” *The Guardian*, 25 Apr. 2019, www.theguardian.com/environment/2019/apr/25/extinction-rebellion-assessing-the-impact.

⁴For a detailed and lucid account, see, Kolbert, Elizabeth. *The Sixth Extinction: An Unnatural History*. Henry Holt & Company, 2014.

trying to get people, movements, and actions to conform to this model” (Foucault 85). In this manner, the mass regulation of bodies is the great legislator of democracy, and yet can never close the circle of its own finitude. As this implies, “if they tell you you can’t, then you can” (Chumbawamba).

I wrote this article whilst wondering what use literature can be in the light of escalating state repression. From a UK context, this piece charts the complex intersectional pathways that have contributed to the escalating illegality of bodies—those of myself and thousands of other climate activists. I utilise autoethnography to narrate my experience of the shifts in the legal landscape over the last six years, and in doing so, situate my partial and subjective perspectives alongside those who participate throughout a complex matrix of civil and planetary rights movements. My intention is to demonstrate and document the extent to which, over this short period, legal apparatuses have increasingly criminalised environmental protest.

Later that same day in 2018, whilst a small group utilised their bodies to block a side-street to Parliament, a Member of Parliament remonstrated with me to allow his car through the human barricade. He would, he promised, vote for green bills from that point forwards, providing activists allowed his car access to the parking spaces at the Houses of Parliament that day. His voting record did not suggest that there was much likelihood of this change of heart, and he left frustrated, walking the last three minutes on foot, through crowds conducting miniature citizens’ assemblies, organising marches, and hosting listening circles. Over the following year, despite membership of XR continuing to grow at a rapid pace, protests were regularly curtailed by the Metropolitan Police’s (MET) imposition of Section 14 of the Public Order Act,⁵ forcing early ends to hundreds of peaceful protests by way of blanket arrests. By the end of 2019, the MET’s effective ban on climate protest was deemed to have been illegal (Gayle and Dodd); this important decision deemed protestors’ bodies legal retrospectively, and spared many from fighting potential criminal convictions, but could not turn back the clock.

In the intervening months, the UK government’s failure to enshrine ecologically-sound principles and protections in line with its declaration of a climate crisis had continued unabated. Meanwhile, Jonathan Fuller and others registered a legal complaint against members of the UK government for pursuing policies causative of climate genocide in line with Article 30.2(b) of the Rome Statute of the International Criminal Court (ICC 20). Although this dossier outlined “the 400,000 people killed a year by climate breakdown, the commencement of the annihilation of several low-lying island states and the range of other harms” that continue to be caused by members of the political elite, and although the MET police force has confirmed that these actions are indeed criminal, there remains no investigation against political or corporate actors (Extinction Rebellion).

Ironically, whereas disciplinary measures had failed to prevent XR’s growing political influence, the zoonotic COVID-19 pandemic almost entirely halted its momentum. Against a backdrop of millions of deaths, the onset of severe chronic illness for many more, and multiple lockdowns, it was no longer feasible to organise direct

⁵See, Gov.uk. “Public Order Act 1986.” *Legislation.gov.uk*, 1986, www.legislation.gov.uk/ukpga/1986/64/section/14.

protests. By the time lockdown eased, attendance for the group's protests was significantly diminished, with the highly controversial new Police, Crime, Sentencing and Courts Act 2022 also severely restricting the right of UK citizens to protest.⁶ In the parliamentary debates which culminated in this bill's approval, Members of Parliament frequently cited the disruptive nature of actions by XR as a precedent for the need to restrict the right to protest. Although disruption is annoying to those it affects, it is key to effective civil rights advocacy (Mead), as in the case of the suffragettes, and of the freedom riders.

By this point, I was teaching SF to university students; a praxis almost irreconcilable with the dire and widespread scientific evidence of continuing anthropogenic climate impacts. Whereas Climate Fiction (CliFi) texts such as Paolo Bacigalupi's *The Windup Girl*⁷ provided a valuable critical means of future apperception for students who will have to live through the impacts of the climate crisis, space-faring Golden Age texts such as Isaac Asimov's *Foundation* novels⁸ suddenly appeared far less relevant. I was now teaching climate fictions, whilst living through climate fact. In our Anthropocene context, all extrapolation which imagines far-flung human life centuries into our future (or which inscribes any 'destiny' to technocultural development) is fiercely circumscribed by our societies remaining neither sustainable nor regenerative.

In the climate movement, however, bodies themselves had become tools of resistance. By late 2021, new environmental protest groups such as Insulate Britain, Just Stop Oil, and Animal Rising⁹ were gaining traction, finding creative ways to circumvent the UK's new anti-protest laws whilst largely abandoning the exuberant overtones of XR. Following protests outside/within the grounds of oil terminals in April 2022, injunctions were brought about by the fossil fuel industry and ratified in the UK courts (TFL). These injunctions make it a specific offence to protest in the vicinity of fossil fuel infrastructure, and impose a strict fine upon individuals doing so, with a low threshold of evidence needed for convictions. Such injunctions have since been extended for the foreseeable future (Laville; Kelly 6). This variety of corporate injunction—against both named and unnamed protestors—was unprecedented in UK law, and artificially reduced the range of viable targets for effective climate protest (Cutcher).

At this time, the landmark supreme court judgement "Director of Public Prosecutions v Ziegler and others"¹⁰ had recently been decided, giving a legal precedent for any disruptive peaceful protest with the objective of mitigating harm caused to human life in aggregate (Library of Congress). By late 2022, protest activity by groups including Just Stop Oil was intensifying in relation to the UK government's planned approval of

⁶See, Gov.uk. "Police, Crime, Sentencing and Courts Act 2022." *Legislation.gov.uk*, 2022, www.legislation.gov.uk/ukpga/2022/32/contents.

⁷*The Windup Girl* is set in an all-but-underwater Bangkok ruled by mob bosses, following societal collapse.

⁸The *Foundation Universe* series is set across millennia and every facet of our galaxy.

⁹Insulate Britain demanded that the government insulate all homes, in order to improve energy efficiency. Just Stop Oil demanded an end to all new fossil fuel licenses in the UK, and now demands the UK government phases out fossil fuels by 2030. Animal Rising demands an end to animal suffering and anthropocentric agricultural practices.

¹⁰See, UKSC. *Director of Public Prosecutions (Respondent) v Ziegler and Others (Appellants)*. 16 July 2024, <https://supremecourt.uk/cases/uksc-2019-0106>.

more than one hundred new fossil fuel licenses (Lawson). These approvals flew in the face of an extensive array of scientific evidence that any government's continued investment in fossil fuels stands to cripple the future of life and biodiversity on the planet. I took part in a protest in November 2022 with a few dozen others, using our bodies to block automotive access to Parliament Square between Downing Street and the Houses of Parliament. This action caused an average delay of under five minutes to motorists (Diffenthal), and was cheered on by pedestrians in the vicinity.

That same month, hundreds of other activists utilised their bodily agency as a means of protest, and many were eventually found guilty of a range of crimes, including "causing a public nuisance" and "wilful obstruction of the highway with a non-motor vehicle" (Rufo). Unlike myself, many people received custodial sentences for their activism, and the mental, financial, and social tolls of such sentences cannot be understated. In the following months, sit-down protests were criminalised on all roads in the UK, and later, in response to a change of protest strategy across 2023, marching on roads as a means of protest was likewise criminalised (Shackle; BBC). When cases reach court, defences pertaining to the climate crisis are often specifically ruled out (Siddique), ensuring that protestors are unable to defend themselves, and effectively silencing their moral justification for protesting climate breakdown (Berglund et al. 24). This increasingly common act of verbal violence allows the physical violences of extractivism to go unchallenged. Over this short period of six years, protestors' rights to protest anywhere in public have been vastly eroded by an unfolding range of targeted changes to UK law.

In the Anthropocene, inequalities between living bodies are intensifying. Humans living in the global south alongside a vast array of non-human life around the world stand to be disproportionately affected by the impacts of continued fossil fuel investment by governments and corporations; no government should be systematically silencing those who highlight such ecological atrocities, or the ecological principles they represent. As UK citizens, myself and many others feel that it is especially crucial to use our bodies to pressure governments towards enacting sustainable and regenerative societal paradigms, particularly since police forces in many other countries have traditionally taken a considerably more regressive, violent, and often murderous approach to protest (Berglund et al. 6). In tandem with the mass casualties predicted by climate science, the twenty-first century will be a century where the body is more subject to abjection than ever.

In 2023, there were more than 47,000 estimated human deaths caused by climate change as a result of temperature extremes across Europe alone (Gallo et al. 3101). At the same time, in low- and middle-income countries, climate change has already increased heat-related neonatal mortality rates by up to 50% (Dimitrova et al. 5). Although subject to a high degree of uncertainty, future mortality estimates are immense (Carleton 2099). Meanwhile, state discipline in the UK is taking the form of increasingly authoritarian anti-protest legislation. In May 2023, our civil liberties were distilled further by the advent of the Public Order Act 2023,¹¹ which criminalises environmental protest

¹¹See, Gov.uk. "Public Order Act 2023." *Legislation.gov.uk*, 2023, www.legislation.gov.uk/ukpga/2023/15.

even further, whilst granting police forces powers to stop and search anyone deemed by the state to have dissident opinions, without the need for evidence of illegal activity (Badshah). This power has since been exercised to arrest known activists in their homes and seize their property, at times when they were not actively protesting (JSO).¹²

These moves to criminalise protest (and discussions of it) have drawn criticism. As UN Special Rapporteur Michael Forst stated in a January 2024 report:

These developments are a matter of concern for any member of the public in the UK who may wish to take action for the climate or environmental protection. The right to peaceful protest is a basic human right. It is also an essential part of a healthy democracy. Protests, which aim to express dissent and to draw attention to a particular issue, are by their nature disruptive. The fact that they cause disruption or involve civil disobedience do not mean they are not peaceful. As the UN Human Rights Committee has made clear, States have a duty to facilitate the right to protest, and private entities and broader society may be expected to accept some level of disruption as a result of the exercise of this right. (Forst 1)

The UK government has, to this date, failed to respond to Forst’s letter of allegation that its anti-protest laws are in breach of the Aarhus Convention.¹³ Soon after, the UK’s court of appeal ruled that “beliefs and motivation” pertaining to the climate crisis cannot be relied upon as a legal defence in activism-related court cases (Tobin). In the months since, dozens more activists have been handed hefty custodial sentences for participating in climate protests, including sentence lengths previously unprecedented for peaceful protest.

In a July 2024 trial, five Just Stop Oil activists were jailed for between four and five years for attending a Zoom call relating to planned protests on London’s M25 motorway. Following their sentencing, more than 1200 celebrities, artists, and academics signed an open letter to the UK’s Attorney General which condemned the injustice of the sentences (Bell). The letter’s plea was denied. Less than two months later, six further activists were found guilty of having climbed a gantry over the M25, and five were sentenced to custodial imprisonment, with terms of between one and two years. The average delay caused to motorists by this protest was four-and-a-half minutes (Sharkey). These sentences once again received international condemnation (Clarke). As I write, two more protestors have just been jailed for two years, for throwing soup over the glass and frame of a Van Gogh painting (Lawson-Tancred), in an act which symbolically recruited, and thereby transformed, the signification of the famous artwork (Abrams and Gardner). In spite of their rallying cry—“what is worth more, art or life?”—the painting itself was undamaged.

These environmental activists, to put it bluntly, are not being jailed for protesting, but instead in relation to the cause they are protesting about, whilst the real climate

¹²For video footage of some such raids, see, Howie, Michael. “Just Stop Oil: Police swoop on 27 activists suspected of summer airport chaos plot in wave of raids.” *The Standard*, 28 June 2024, www.standard.co.uk/news/crime/just-stop-oil-arrests-airport-disruption-summer-metropolitan-police-b1167458.html.

¹³The United Nations Economic Commission for Europe established the Aarhus Convention in 1998 to establish common rights to safe living environments.

criminals continue headlong in facilitating extractivism. One of the earliest works of climate fiction (or CliFi) is Ian Weekley's 1974 novel *The Moving Snow*. It opens chillingly, describing the onset of an unprecedentedly massive snowfall as a result of climate change:

It was transport that broke down first, as I've said, and as one would expect. People gradually got used to that and hardened to the steady flow of stories that, in themselves, were a condemnation of any advanced technological society. The registered death toll rose, imperceptibly, as news came in from outlying areas of bodies discovered in the snow and people trapped in their cars, frozen or poisoned by their own exhaust gases. The list of missing gradually became a list of the dead, and the list of missing was a long one. [...]

No transport meant food shortages, malnutrition, and some starvation. Things weren't too bad in the south, and there was many a community elsewhere that thanked God for its coastal location where foreign aid supplies could be landed. (Weekley 11)

Fifty years later, up-to-date climate projections suggest that food shortages will indeed be one of the earliest climate impacts on wealthy nations, as a result of crop failures (Kim and Mendelsohn).¹⁴ Devastatingly, the increasingly likely breakdown of the Atlantic Meridional Overturning Circulation (AMOC) could lead Britain to a climate which precisely mirrors the opening vista of *The Moving Snow* in the next few decades (Cooke). Fifty years on, many emerging aspects of the climate crisis seem like climate fiction themselves.

In an analogously prescient vein, Gregory Benford and Hilary Foister's 1980 novel *Timescape* speculates on the deforestation of the Amazon rainforest for monocultural farmland: "The snag is that the Brazilians cut back so much of their jungle for the sugar cane fields. That lowers the number of plants which can absorb carbon dioxide from the air. Trace that effect round a bit and it explains the shifts in the world climate, greenhouse effect and rainfall and so on" (Benford and Foister 103). The prognostic quality of such CliFi texts speaks foremost to predictable mistakes, emphasising the scientific lessons which our species has failed to heed in the decades since (Levy et al.). I passionately believe that the best CliFi for Anthropocene times also functions rhetorically. As is implied by the increasingly ruined base diegesis of *Timescape*, salvation in the novel's narrative can be attained only by looking to—and generating dialogue with—the past, neatly refuting the capitalist truism of perpetual progress.

It is not in any sense fiction that many of the world's billionaires have, over the last five years, invested heavily in personal bunkers which will allow them to retreat from the very climate emergency that they have sponsored (Plested; O'Connell; South and South; Lam, et al.; Cousin and Schultz; Ritchard). Likewise, the publications of leading transhumanists evidence very similar intentions and trajectories; namely, in the direction of survival of the wealthiest through the climate crisis (Thomas 173). Societies have always had their doomsday preppers, but this particular separatist approach is now

¹⁴Geographical impacts in the UK are also likely to be exacerbated by its north/south divide.

becoming a *de facto* necropolitical imperative. Climate culling¹⁵ is not science fiction, but a deathly reality, and seemingly provides a rationale for climate inaction. All those who are not ultra-rich become abject bodies, to be either left outside the bunker in our future, or locked away in our present—for daring to violate the narrow ideals of the same neoliberal orthodoxy that is leading us all closer towards societal collapse. The same ultra-rich individuals—who comprise a miniscule fraction of the world’s population—are overwhelmingly responsible for ongoing global carbon emissions and their related climate impacts. Season 4 of the SF series *The 100* satirises climate culling and bunkerization very capably, with the added irony of the show being an Amazon Prime series.

Geoengineering, the most plausible future pathway from our own reality, is an equally terrifying prospect (Wallace-Wells)—SFnal depictions are necessary to illustrate the chaos this last-ditch approach will cause as a result of meddling with hugely complex atmospheric systems. As I have outlined above, whilst there is a deep imperative for the 99% to engage in activism, acting becomes significantly more difficult in the face of repressive new laws which contravene human rights conventions, legitimised only by ever-lengthening prison sentences. I only hope that this stifling of protest in itself can become a great imperative to mobilisation. One line from the SFnal television series *Years and Years* always sticks in my head, speaking back to our present from a ruined UK of 2034: “We blame these vast, sweeping tides of history, like they’re out of our control, like we’re so helpless, and little and small. But it’s still our fault. [...] This is the world we built” (Mulcahy). Particularly where activists have been silenced, CliFi contributes towards making the climate and ecological crisis visible once more. Writing now, I recognise that I personally find most pedagogic value in CliFi narratives which refute the overwhelming tendency of literature towards eucatastrophe. The teleological ideology that our species’ salvation is somehow assured no longer rings true to my ears—I believe that a move towards a CliFi syllabus from an SFnal one may prove valuable to teaching any future generations about where we went so wrong, in our interrupted drive towards the stars.

At the time of press, nineteen people are serving prison sentences for their affiliation with Just Stop Oil in the UK.¹⁶ At least a dozen more are non-custodial prisoners on curfew, having been electronically tagged.



¹⁵An emergent ideology amongst some powerful and wealthy individuals, centred upon intently prepping to survive the climate crisis on an individual basis, whilst acting with negative intent to preserve life on Earth more broadly. Examples of such negative intent include: fossil fuel advocacy and/or lobbying, climate change delegitimization campaigns, reduction of press freedoms, and the criminalisation of protest rights.

¹⁶See, RIPS. “Current Political Prisoners.” *Rebels in Prison Support*, 2024, <https://rebelsinprison.uk/rebels/>.

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