

# Climate Litigation

## LESSON OVERVIEW

This lesson was designed to be used after students already have a basic familiarity with the Canadian Charter of Rights and Freedoms. See the lesson plan: The Canadian Charter of Rights and Freedoms.

In this lesson, students will be introduced to climate litigation, explore the court process, and discuss environmental laws through real-world and hypothetical scenarios to deepen their understanding of legal responses to climate issues.

This lesson includes an optional follow-up session(s) featuring a mock trial experience, allowing students to apply their learning in a dynamic, interactive setting. This hands-on activity encourages critical thinking, debate, and a deeper understanding of environmental law and climate litigation by simulating real-world courtroom proceedings.

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## GOALS

- Introduce students to the idea of climate litigation.
- Learn more about the court process.
- Gain awareness of environmental issues through a discussion of laws and hypothetical scenarios.

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## MATERIALS

- Overview and Background Information Document
- Slide Deck: Climate Litigation
- Fact Sheet: Legal Institutions
- Fact Sheet: Legal Principles
- Case Summaries
- Optional Activity: Mock Trial Outline (Simplified or Full)
  - Fact Sheet: Developing Your Case Strategy
  - Worksheet: Developing Your Case Strategy



## PROGRAM OF STUDY CONNECTIONS

Social Studies 9	POS 9.1.1, 9.1.5, 9.1.6, 9.1.7
Environmental and Outdoor Education 9	Environmental Investigations: 1A, 1B, 1C, 2A, 2B, 2C
Social Studies 10-1/-2	POS 2.11 3.6-3.9, 3.6-3.7, 3.9, 4.7, 4.10
Social Studies 30-1/-2	POS 1.2, 1.8, 2.8, 3.7, 3.8
Science 10	Unit D: sts&k 1.1, 3.4, 4.1
Science 14	Unit D: sts&k 1.8, 2.8
Science 20	Unit D: 1.4k, 1.5k, 1.2sts, 1.2s, 1.3s, 1.4s
Science 24	Unit A: sts&k 4 Unit B: sts&k 4 Unit C: sts&k 1
Science 30	Unit D: 1.5k, 1.6k, 1.2s, 1,3s 1.4s
Biology 20	Unit A: 2.1sts, 2.4s, 3.2sts, 3.4s Unit B: 1.1sts, 1.3s, 1.4s
CTS: Natural Resources	ENS: 1115, 2120, 2140, 2050, 3030, 3040, 3050, 3110, 3120 WLD: 2090, 3090 FOR: 3010 PRS: 1020, 1050
CTS: Legal Studies	LGS: 2030, 3060, 3070



## LESSON OUTLINE: SESSION 1

<b>Time</b> (times are all approximate)	<b>Description</b>	<b>Materials and Resources</b>
15 minutes	1.A. Introduction to Legal Principles <ul style="list-style-type: none"> <li>• What laws affect your daily lives?</li> <li>• Why do you comply with these laws?</li> <li>• Why do you comply when you know you likely won't get caught?</li> <li>• Should judges be elected?</li> </ul>	Climate Litigation Slide Deck  Slides 1-3 <ul style="list-style-type: none"> <li>• Legal Institutions Fact Sheet</li> <li>• Legal Principles Fact Sheet</li> </ul>
20-30 minutes	1.B. Introduction to Climate Litigation <ul style="list-style-type: none"> <li>• Review and discuss climate litigation case summaries</li> <li>• What is the role of the justice system in solving environmental problems?</li> </ul>	Slides 4-6 <ul style="list-style-type: none"> <li>• Case Summaries</li> </ul>
15-20 minutes	1.C. The Courtroom <ul style="list-style-type: none"> <li>• When does a case go to court?</li> <li>• Who is involved?</li> </ul> 2.A. If you choose to continue with the mock trial activity (optional session 2-3): <ul style="list-style-type: none"> <li>• Create groups</li> <li>• Provide case summaries for examples of climate litigation proceedings</li> </ul>	Slides 7-9  Optional: Slides 10-11 <ul style="list-style-type: none"> <li>• Case Summaries</li> </ul>



# LESSON PLAN

All background knowledge needed to facilitate this lesson can be found in the [“Environmental Laws 101” Document on pages 57-63](#). Along with the slide deck and activities provided, you have all the resources needed to facilitate this lesson. If you need further clarification or additional information, please don't hesitate to reach out to [programs@abcee.org](mailto:programs@abcee.org).

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## 1A. INTRODUCTION TO LEGAL PRINCIPLES

### Slides 1-3

- **Hand out** Legal Institutions Fact Sheet and the Legal Principles Fact Sheet
- **Ask** students to brainstorm responses to the following questions, either individually, in small groups, or as a whole class discussion.
  - What are some examples of laws that affect your daily lives?
    - *Examples of laws that may be familiar to students are the Highway Traffic Act (rules of the road) and the Criminal Code (assault, damage to property etc.).*
  - Why do you comply with these laws? Do you still obey the laws even when you know you likely won't get caught if you break the law?
    - *Examples of reasons why students may consider obeying the laws even when they won't get caught if they break them are:*
      - *The recognition that laws are required for an orderly society.*
      - *The knowledge that if one person is allowed to break the law, then everyone might.*
      - *The fear of punishment by others such as parents; moral or religious objection to unlawful activity.*
- **Explain:** Our legal process gives the courts the power to interpret the laws passed by elected politicians. Sometimes politicians complain that judges or justices have interpreted the law in a way that was never intended.
  - **Is this right? Should we elect our judges to make sure that they reflect public values?**
    - This question should focus student thinking on the relationship between politicians (legislators) and the courts.
    - In Canada, judges are not elected, unlike the American system where many judges are elected.
    - One argument for a non-elected judiciary includes that it allows judges to be more independent because they do not face elections.
    - For example, they are more likely to uphold the rights of minorities and to hold politicians accountable to the law. If politicians disagree with the decisions of judges, they have the option of changing the laws through the legislative process. The contrary argument is that elected judges would more accurately reflect the views of the general public.



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## 1B. INTRODUCTION TO CLIMATE LITIGATION

### Slides 4-6

- **Video:** Centre for International Governance Innovation: [Climate Litigation](#) (4:20)
- **Explain:** The justice system has limited capacity to address climate change because Canada's current legal framework does not formally recognize the right to a healthy environment.
  - *For example, in the video, the Urgenda decision in the Netherlands was more successful because the Netherlands already had a legal duty to protect its citizens from the effects of climate change.*
- **Discussion:**
  - Option 1: Class discussion of climate litigation cases. Provide the “Case Summaries” document to be used for the discussion. (found in the document tabs)
  - Option 2: Think-Pair-Share: divide the class into groups and assign a climate litigation case from the “Case Summaries” document to each group to read, do further research, and share their findings with the rest of the class.
- **Discussion Questions:** You can put these questions on the board to guide students’ research of their case.
  - What was the argument put forward by the plaintiffs in your case?
  - *Plaintiff: the person who brings a case against another in a court of law*
  - Did they succeed?
  - How do the legal arguments and outcomes in these climate litigation case studies show the role of the justice system in solving environmental problems?
  - What might this mean for future climate action?

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## 1C. THE COURTROOM

### Slides 7-9

- **When does a case go to court?**
  - After a Statement of Claim is filed. This is a document which sets out the plaintiffs’ arguments. It usually occurs when a settlement (or agreement) cannot be reached outside of the court process.
- **Who is in the courtroom?**
  - The judge (Court of Justice) or justice (Court of King’s Bench, Court of Appeal, Supreme Court of Canada) is in charge of the Court. They listen to what is said in court and decide who is more credible.
  - A lawyer works for each side, one lawyer represents the plaintiff (the person who brought the case) and another represents the defendant (the person defending their position). Individuals are also able to represent themselves as self-represented litigants.
  - A witness testifies in court to provide evidence in the case. The witness can be called to give evidence by either lawyer.
  - The public gallery is a seating area in the courtroom where members of the public may sit to observe what happens in court. Canadian court is considered to be an open court.
  - The court clerk helps the judge or justice in the courtroom, for example by making the court schedule, calling the court to order, or other tasks.
  - The court reporter records what is said in the courtroom to be made into a transcript.
- *Note: If you choose to continue with the mock trial, you can start session 2.A (slides 10-11) if time permits.*



## LESSON OUTLINE: OPTIONAL SESSIONS

This section can be done in 2-3 classes depending on time available.

Time (times are all approximate)	Description	Materials and Resources
10-20 minutes	2.A. If not completed in session 1, introduce the mock trial activity. <ul style="list-style-type: none"> <li>• Create groups</li> <li>• Review the case summaries from session for examples of climate litigation proceedings</li> </ul>	Mock Trial Slide Deck  Slides 10-12 <ul style="list-style-type: none"> <li>• Legal Institutions Fact Sheet</li> <li>• Legal Principles Fact Sheet</li> <li>• Case Summaries</li> </ul>
60-120 minutes	2.B. Prep for Court <ul style="list-style-type: none"> <li>• Discuss strategy vs. the presentation</li> <li>• Give students time to develop a strategy and presentation</li> <li>• Mock trial procedure: full hearing or simplified process</li> </ul>	Slides 13-21 <ul style="list-style-type: none"> <li>• Developing Your Case Strategy Fact Sheet and Worksheet</li> <li>• Simplified Hearing Outline</li> <li>• Full Hearing Outline</li> </ul>
5-10 minutes	3.A. Introductions	Slide 18
45-60 minutes	3.A. Oral Presentations & Questions <ul style="list-style-type: none"> <li>• Groups 1-4 present</li> <li>• The panel may ask 1-2 clarification questions after each presentation</li> </ul>	Slide 19
10-15 minutes	3.A. Closing Statements <ul style="list-style-type: none"> <li>• Each group may provide a short response</li> </ul>	Slide 20
10-20 minutes	3.B. Justice Deliberation and Decision	Slide 21
20-30 min (can be used as an assignment)	3.C. Debrief and Reflection	Slide 22



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## 2A. INTRODUCE THE MOCK TRIAL ACTIVITY

### Slides 10-12

- **Choose a topic** for the mock trial.
  - Select a topic that best aligns with the course in which this lesson is being taught.
  - Topics may be real or fictional but should be related to the environment.
  - *Example Mock Trial Topics*
    - *Does the government have a legal obligation to protect future generations from climate change?*
    - *Should nations be required to grant asylum to people displaced by climate change*
    - *Can companies be held financially responsible for climate damages caused by their emissions? For example forest fires or flooding.*
- Divide students into groups (or have students choose their preferred group). The size of each group will differ by class size and will depend on whether the class will be doing one big hearing or several small hearings.
  - **Group 1: The Plaintiffs** – This group represents the side advocating for environmental protection and/or human rights. They are bringing the case forward and asking the government or court for a remedy. Plaintiffs may include individuals, environmental organizations, community groups, or even government bodies.
  - **Group 2: The Defense** – This group argues that their actions or inaction do not violate any laws or rights, and that their approach is justified. The defense may represent a government body, corporation, or other organization responding to the claims made by the plaintiffs.
  - **Optional Group 3 and 4 (can have more if you have a larger class): The Intervenors** – These groups represent individuals or organizations that are not directly involved in the case but have a strong interest in its outcome. They apply to the court for permission to share their perspective, offer expert insight, or highlight broader impacts.
    - *Example: A large company who does not want more restrictions, rules, or limits placed on them and does not support the plaintiffs argument.*
    - *Example: A youth, human rights, or environmental group that supports the plaintiffs argument.*
  - **Group 5: The Judges** – This group is responsible for listening to the arguments from all sides, evaluating the evidence, and delivering a fair and informed decision based on the facts and applicable laws.
    - This role can also be taken on by the teacher.

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## 2B. PREPARE FOR COURT

### Slide 13

- Students can work individually or in their groups to review current environmental law and climate litigation using some of the resources below and start thinking about their own hearing.
  - Environmental Laws 101 Background Document
  - [Three types of climate cases to watch out for in Canada](#)
  - [Environmental Law Centre Publications](#)
  - [Youth Climate Lawsuit in Canada](#)



## Slides 14-15

- **Discuss** the difference between group strategy and the actual presentation that students will make.
  - A strategy is the plan that each group will develop to achieve its objectives in court and explain their versions of what happened. You can use your strategy to help develop your presentation to the Court.
  - The difference is that the strategy is the background research and information necessary to make your arguments and develop your questions for the opposing side.
- **Suggested plan for Groups 1-4** to follow when developing their group strategy: handout “Developing your Case Strategy Worksheet”
  - Determine group objectives. What are you trying to accomplish in your court presentation?
    - *For example, for the plaintiffs, the goal may be to secure a legal remedy or outcome that directly benefits their client (i.e. the environment). For the intervenors, however, the aim might be to introduce a legal argument or perspective that aligns with their organization's mandate or advances a broader public interest.*
  - Identify important facts. What are the strongest facts and evidence that will help achieve your objectives?
    - *For example, the defendants (i.e. the person or group the plaintiffs believe caused the problem - this could be the government or a company) may need to show how their actions did not contribute to the problems claimed by the plaintiffs.*
  - Plan actions. Students should present their initial strategy to either the teacher or other students. Each group should prepare a written strategy although it need not be lengthy and can be in point form.
    - This can also be used by the teacher as part of their evaluation. This should set out the background facts and evidence that will be used in developing their presentation script.
  - Give students the opportunity to work in their groups to prepare a strategy for the hearing and plan their presentations before the court.
- If you opted for a **student group 5**, the judges, they will not be developing a strategy but rather familiarizing themselves with the Constitution and the court process. They should carefully read the material provided to them and the past decisions in case summaries.

## Slide 16

- After developing their strategies, students should **prepare their 5-8 minute presentation** (depending on time available) for the Court. Each presentation should deal with these matters:
  - A clear summary of your group's position in the case.
  - The reasoning behind your position—why you believe it is valid or just.
  - A brief overview of the evidence you plan to present during the hearing. This may include testimony from mock experts, visual evidence (e.g., photos or diagrams), or other supporting materials.
  - Your group's concluding statement—what outcome you are seeking and why it matters.
- *Note: the evidence that students use can be created in groups or can be drawn from other class work. The actual evidence is not the point of the exercise but is a way for students to practice their advocacy and start thinking more about how to argue about climate issues.*
- **Optional Written Presentation Plans:** written presentation plans can be used by the teacher for grading purposes. In a real hearing, the groups' positions would be circulated in advance to the judges and other participants. At the teacher's option, the material can be circulated in advance.



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## Slides 17-21

- Review the Mock Trial procedure.
  - Simplified Hearing Outline
  - Full Hearing Outline
- Full Hearing vs. Simplified Hearing
  - Depending on the time available, teachers may want to stage a **full hearing**, however, teachers should be wary of embarking on a full hearing process. One, it will be very time consuming. Two, it is likely that students will have some difficulty differentiating between the various stages in a hearing; for example, they may not understand the difference between evidence and argument. As well, the prospect of cross-examination may be distracting for students.
  - It is not an objective of this exercise to teach laws of evidence and civil procedure but rather to get students thinking about the constitution and environmental law. However, it may be appropriate for the judges to ask questions of clarification at the end of each presentation. If teachers want to stage a full hearing, there is more of an explanation in the section below.
  - For most classes, it is suggested that a **simplified procedure** for the hearing will be the most effective and contribute most directly to the project's objectives.
- Time permitting, you can provide a second class for students to prepare their strategies and presentations.

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## 3A. MOCK TRIAL

### Slides 17-21

- Review the Mock Trial procedure again if necessary.
- Using the provided outlines, conduct a mock trial for the chosen case.
  - Simplified Hearing Outline
  - Full Hearing Outline
- Mock Trial Assessment:
  - As the teacher, you can decide if you would like to assess the students during the mock trial or not.
  - If you choose to use this as a form of assessment, here are some tips:
    - Create a group contract with students that they agree to follow.
    - Evaluate students individually on their presentation delivery and professionalism.
    - Evaluate groups as a whole on their content and organization.
    - Ask students to evaluate their team members and themselves.



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## 3B. DEBRIEF AND REFLECTION

### Slide 22

- It is important that there is a debriefing session following the mock hearing and panel decision. The hearing process can be quite troubling for some students as it forces them to face the difficult concepts of climate change. Students quickly become committed to the position of their student group and can be disheartened if their view is not adopted by the Judges. Although this is a typical response to a real hearing, students should be given the opportunity to express their feelings and concerns about the process and the decision. They should be encouraged to move beyond their disappointment in “losing” or satisfaction in “winning” to assess the process and their participation. Hopefully, they will also consider the application of their experience in real world examples of climate litigation.

### Discussion questions:

1. Did the hearing process give all participants a fair opportunity to present their views?
2. Were any parties at a disadvantage in presenting their position? Did others have an advantage?
3. Was this process the best way to present information to a panel?
4. Was the group strategy effective? What else could have been done?
5. Are there any alternative processes which would result in better decisions?
6. Are there any community processes where this new knowledge could be applied?

