

Seminario justicia ambiental y democracia

Me Danielle Gallant, lawyer for Ecojustice Canada

Ecojustice is an environmental law charity working across Canada on key cases regarding the protection of the environment. Some of the issues that they work on include the loss of endangered species and habitats, the growing climate emergency, environmental racism, colonial ideas of conservation as well as forever chemicals and plastic pollution.

As Me Gallant explained during her presentation, there has been an explosion of cases linked to environmental justice around the world, including some notable victories. In Canada, however, there have been negative precedents such as *Friends of the Earth v. Canada* and *Turp v. Canada*, that seem to have failed as they were deemed inappropriate issues for courts to decide on.

Recently, the legal situation surrounding environmental protection in the country reached an important milestone with the advent of the *Marthur et. Al. v. Ontario* case being brought before the Ontario Superior Court by Me Gallant and her team. While the case was dismissed in April 2023, it is important to highlight that this represents the first time in Canadian history that a court recognized climate change as a constituting a potential violation of Charter rights.

This specific legal fight was launched by seven young climate activists seeking a safe climate for future generations. They wished to challenge the Province of Ontario in replacing their environmental targets to be more compliant with science, which includes following the Intergovernmental Panel on Climate Change (IPCC).

The legal team also brought in reports from the government itself to expose the shortcomings of the current administration, as well as seventeen expert reports to shed light, without room for doubt, on the impacts of the catastrophic decision to adopt a minimal target way below what the global scientific consensus decided on to efficiently reduce GHG emissions.

This case was found to be justiciable. The Court suggested that an action based on this target was a favorable thing to bring forward as it challenged specific government conduct. When the decision to dismiss the application was rendered in April 2023, the judge made no room for debate on climate change as it does have disproportionate impacts on the youth and indigenous youth, whether physical or psychological.

While the target is engaging section 7 of the Charter, the action appears to have failed as the violation of these rights is not done in an arbitrary way, nor is it disproportionate. A disproportionate impact was found, not caused by the target, but by climate change itself. It appears that this disproportion of impact is not based on age, but on a change in time, meaning that we must consider the age of the people who will have to deal with climate change.

Me Gallant highlighted the recent developments in environmental justice in Canada as well as important issues faced by youth. Ecojustice's purpose is to fight for the protection of the environment, and in the end, their wins will benefit all of society.