

Keynote speech 3rd November 2021

How can law clinics adapt to tackle climate change?

Thinking globally, acting locally.

Alex Goodman

My answer to this question in short is that law clinics can play an important role in defending the environment. The way they do that is by working to help communities and campaigners; helping them to target their actions, to sharpen their legal acumen, and by doing so to give greater power to those groups.

I am going to explain how that can work a little more in a moment, but I have been asked to say a bit about my work before I explain this further. I am currently a barrister working in environmental law and human rights. I mainly work to support campaigns in those areas. I have always had a political side to my work. I was the Green Party campaigns coordinator for the London area- organising the climate marches in the early 2000s and I was then elected as a councillor and became the leader of the Green group of councillors in the London Borough of Camden. Some of my first environmental legal work was with Friends of the Earth. Friends of the Earth at the time had what I would see as a very good model for legal action by supporting communities in their political action.

For example, one of my early cases was with the FoE team supporting anti-road campaigners to oppose a new six- lane road and bridge across East London- the Thames Gateway Bridge. The work FoE did was very humble, steering and training local people to run the inquiry for themselves, and coordinating with some of the other pressure groups to oppose the bridge. The work was a lasting success not because we won the particular planning inquiry, but because local opposition galvanised around the public inquiry. The legal support being offered in the technical environment of the planning inquiry was important to this. It helped empower the community. It gave them a belief that their voice could be heard: they were helped to understand the process and how to participate in it and given the tools to do so. The legal resources also helped build, direct, and target the wider political campaign.

Ultimately, it was building the campaign that made the difference because it meant that after they won the inquiry, the idea of a huge new road across London has not yet come back. On a wider level, although new road building remains very well funded by central government nationally, it faces ever tougher arguments, especially in metropolitan centres.

If you are looking to use your legal skill and knowledge to help in climate change campaigns, it is important to start from the first principles of what a lawyer is and can be. A lawyer is an adviser and an advocate. All of us, of course, have political beliefs and we can hopefully steer our work towards doing things we believe in, but as lawyers we are not the campaigners ourselves. It is the client that is the campaigner. The lawyer's job is to advise, boost and empower the client.

I see community groups as environmental defenders. Communities have a responsibility to defend the environment, to defend nature. It cannot defend itself and its destruction affects us all. But it is important to see that communities have power in that role: they make a

difference, they raise the profile of an issue, they make it difficult for political decisions that are destructive of the environment to be taken. Legal clinics can augment communities as environmental defenders by helping with the detail that can sharpen and target activism.

Every decision matters. The way we have set up our social system is that the duty of business is to maximise profit and that generally means outsourcing the cost of pollution to the maximum extent possible. So if fertilising a farm means spreading manure and letting the rain run it off into a river, that is how it will be done unless someone stops that from happening. A delivery firm, or an airline will outsource the costs to the environment of greenhouse gas emissions: industry never voluntarily absorbs these costs. They are left to the public sphere. But there are existing laws and policies that can be used to restrain these practices at the root. And the more resource we put into upholding existing rules and guidance such as they are, the better.

The other part of the work that legal clinics can do is to link up campaigns as part of a nationwide network. Those with access to wider resources and understanding of the issues can enable communities to link their campaigns to others and see their local issue as part of a national and global issue- to move from NIMBY to “not here, not anywhere”.

I will give some more examples of how I have worked with campaigns and communities in this way.

I had a period working with Friends of the Earth on the way we dispose of waste. There is a hierarchy – reduce first, recycle second, and then dispose last. Despite this overt policy, the government’s primary response to waste has not been through effective reduction policies or through recycling. The main thrust of waste disposal has been to expand energy from waste facilities. I worked on a number of these for local communities. It was actually a turning point in my career personally, because I was instructed by Friends of the Earth a few days before I was to be offered instructions by one of the major developers, but had to decline the latter because of the conflict of interest.

We- the lawyers and campaigners - supported the people of Merthyr Tydfil in opposing a waste incinerator that would have burned almost all the waste of Wales. The case is quite a famous one as having attracted 10,000 objections from local people. It was also the first to use a new process for nationally significant infrastructure. The main point of principle was that by building new infrastructure that was at the bottom of the hierarchy, the state was locking the country into failure on climate change and the environment for at least 40 years. There were so many objections, and so many competent local people, that the way we assisted was to organise the objections. I think in the end we agreed to divide up the work among twelve lead individuals, each taking a major issue with some direction from the legal team. So we were able to present a much more coordinated and powerful front at the Inquiry, despite all of the numerous the public bodies being against the local people, and the locals being unsupported by any public money. It remains one of the only Nationally Significant Infrastructure Projects to have been defeated at inquiry.

Another helpful example is Fracking campaigns (hydraulic fracturing seeks to release and capture gas from deep underground). These have been largely successful in stemming the growth of a new fossil fuel in the UK despite huge support from government. In the early days Friends of the Earth took on the role of supporting communities all over the country.

Communities were seeking to oppose on a whole range of reasons, looking at seismic activity and localised impacts- noise, visual impacts etc. My advice was: ‘fine use these points, but get to the nub of the climate change argument against fracking. That is what unites the campaigns, and that is the real issue’. Working in this way is about bringing the bigger arguments into the local and by extension into the national conversation. In our work we were able to link up these campaigns across different parts of the country from Lancashire to Sussex so as to empower and strengthen them: they could learn from each other. We were also able to encourage more proactive activism with legal help. People often become involved only once an issue arrives at their doorstep and that can be rather late in the process. So we got people engaged in the rather boring work of taking part in development plans and in minerals plans: getting restrictive policies inserted into the plans in areas where fracking might be anticipated, so that when applications came forward, there were stronger policies at local level.

If you want to get involved, have a look at an organisation I currently work with called Rights Community Action. I recommend to you all, especially those in York. We are working supporting communities in Yorkshire in campaigns around sea level rise. Particularly Hull which is likely to find itself flooded repeatedly before this century is out.

There is also scope for legal clinics to support lawyers working on climate change internationally. A lot of climate damage campaigning being done is in poor countries where multinationals – oil companies etc- face much weaker regulatory bodies. I am supporting legal work in Guyana against Esso’s 27 new oil fields there. The impact the work can have is very significant.

And I have been working with the Kings College London’s environmental law clinic. my Chambers, Landmark has an arrangement with the Clinic to supervise the student research in relation to pro bono domestic and international environmental cases whether advice on issues such as air pollution or legal interventions or amicus in international cases aimed at delivering climate justice to communities where access to justice is in short supply.

The case with Kings College is supporting a claim in the Uganda Constitutional Court about deforestation. We are assisting an intervener, trying to offer legal and scientific support to help the court understand some of the international dimension and the significance of the case.

My final note would be that there is such a shortage of access to environmental justice. This is an area where there is no legal aid, and in which resources are scant. That is why it is a field, unlike say refugee law, where students and legal clinics have a potential role in taking action to tackle the enormous challenges being discussed at COP26 and my view is it is a vital and important part of the international effort.

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