

## 21. France: *L’Affaire du Siècle*: the story of a mass mobilization for climate

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On December 18, 2018, France faces an earth-shaking momentum: the launch of a climate litigation action gathers the support of hundreds of thousands of citizens. For the first time, France wakes up with a massive and unprecedented mobilization for climate, and against the decadal inaction of the successive governments. Within 36 hours, the petition ‘L’Affaire du Siècle’ is already strong with than 1 million signatures. In less than three weeks, at Christmas time, this 1 million has become more than 2 million.<sup>1</sup>

In a neighboring country, Sweden, a young woman had already been shaking the status quo: Greta Thunberg was now calling for a global youth mobilization on March 15, 2019. The very same day when the four organizations who denounced France’s failure to tackle the climate crisis planned to submit their final arguments in court and were already mobilizing the youth movements to push the request together. The spontaneous convergence of dates is striking: was the beginning of 2019 a turning point in the story of humanity? Will the masses finally manage to get environmental and climate action from the policy-makers? Will we be able to create a brand new social movement calling for the overthrow of the growth ideology and open up a new era for harmony with the living?

Economic and political forces tremble. Suddenly, the entire world is getting angry and taking action for change. A change against climate change. A change to save the Earth.

### HOW WE GOT INVOLVED IN CLIMATE LITIGATION

Climate change is not new. We find traces of denunciation of environmental damages in the literature of the eighteenth century.<sup>2</sup> The US, Exxon, and scientists already knew about it in the 1970s.<sup>3</sup> The global community expressed its concerns in 1972 and then again in 1992 and every year since then. Scientific reports are multiplying. The book *Silent Spring*, by Rachel Carson, dates from 1962; *The Limits to Growth* report, by Meadows and others, dates from 1972; *Our Common Future*, by Brundtland and the United Nations, dates from 1987,

and so on. The Intergovernmental Panel for Climate Change (IPCC) was created in 1988 and ever since, the scientists have not stopped raising the alarm about the state of the world, and, in report after report, the international community of scientists has become increasingly concerned about the impacts of climate change and environmental degradation. At last, in 2009, the Stockholm Resilience Centre devised tools to measure the ‘nine planetary boundaries within which humanity can continue to develop and thrive for generations to come’<sup>4</sup>. And, no surprise, we have crossed more than half these boundaries.

For years, we, the citizens of the world, have been acting. Acting against predation on resources. Acting in our everyday lives, changing our habits. The consumption of organic products exploded: nine out of ten French people declare they consume organic food regularly. And this is a global tendency – acting collectively, supporting non-governmental organizations (NGOs) and their lobbying, signing petitions, demonstrating, pushing forward alternative economic models.

On September 8, 2018, more than 50 000 people gathered in Paris to call for environmental action, the biggest climate march organized yet in France. On September 28, 2019, more than 7 million people demonstrated throughout the planet to save the Earth. The movement is growing, and will not stop, despite and since no government is concretely reacting to these massive mobilizations. The defenders of the environment are increasingly in danger. Over the last few years, about 200 activists annually have lost their lives to protect the environment, throughout the world and especially in Latin America and Southeast Asia, but also in the European Union with the recent death of two forestry officers in Romania. News of killings of environmental defenders is reaching us each week, mostly Indigenous peoples or forestry officers and rangers in Sub-Saharan Africa fighting against illegal exploitation of resources.<sup>5</sup> In 2018, according to the United Nations Environment Programme (UNEP) and Interpol, environmental criminality was the third most lucrative criminal transnational activity and the most important source of finances of the current conflicts. The illegal financing of armed groups involved in those conflicts represents 38–64 percent of their revenues.<sup>6</sup> In 2015 and 2016, illegal exploitation of natural resources was the first source of financing for Islamic State.<sup>7</sup>

But neither the facts nor the civil mobilizations have managed to push for climate action. The forces we oppose are strongly attached to their ways and as the firms spend billions in lobbying for their polluting products, the states do not react with ambition and daring.

Despite the international conferences and commitments, we are walking straight towards a global warming of +5°C. According to the United Nations Environment Programme and the World Resources Institute, 150–200 living species (plant, insect, bird and mammal) become extinct each day and the rate is worsening.<sup>8</sup> Everyone now knows and feels it, even in our quite protected

countries, that pollution is everywhere, allergies and sicknesses multiply, working conditions are getting harder and harder with the heat, agriculture and fish farming are declining, houses are disappearing in the waters, and so on. It is the Anthropocene – we are killing the Earth and the living. We are no longer heading for a disaster – we are living the disaster. And no reaction is forthcoming.

## FRANCE HAS NEVER BEEN A CLIMATE LEADER

France has pretended to be the leader of climate action throughout the world. Our country adopted pioneer legislation, organized the conference that produced the Paris Agreement, called the world to be ‘green and great again’. However, our laws are still leading us to a warming of 2.6°C and they are not even respected.

Let us have a broader look: the French firms – such as the carbon major Total and other energy firms, our banks, but also our food system – are still not on the road to respecting the Paris Agreement. France is the biggest EU importer of soya from Argentina and Brazil; the way we feed our cattle is a major cause of deforestation. By doing so, those firms are committing ecocide. Nevertheless, the law does not yet recognize ecocide.

Many reports show that we are not acting on the actions of the private sector, despite the fact that it is the main contributor to greenhouse gas emissions. The Carbon Disclosure Project shows that 25 private and public firms were responsible for 51 percent of global emissions between 1988 and 2015, and their pollution is accelerating.<sup>9</sup> Investigations from NGOs showed that 250 million euros were spent between 2010 and 2018 on lobbying European institutions by five fossil fuel firms: Shell, ExxonMobil, Total, Chevron and BP.<sup>10</sup> France pretends to give absolutely no money to this fossil fuel industry. However, we know that 11 billion euros are still given each year to fossil fuels, mainly through exoneration from taxes.<sup>11</sup> But France seems to be neither fully transparent about all existing subsidies to fossil fuel activities, nor about the hidden ones.

Finally, regarding our national public commitments, we are still not there. Even the weak goals settled in law for our internal emissions are not reached. France is late on every single trajectory planned and adopted within the law: emissions in the housing sector are more than 20 percent above the limits, and in transport more than 10 percent. The Haut Conseil pour le Climat (High Council for Climate), put in place by the government in 2019, confirmed the delay and denounced the huge rise of imported emissions: in 2011, the emissions of CO<sub>2</sub> were assessed to reach 9 tons per person, and up to 11 tons per person in 2018.<sup>12</sup>

## IN THE NAME OF ALL, OUR COMMON MATTER

The year 2019 was not only a turning point for climate litigation, it was also an ideological turnaround: everywhere, environmental mass destruction, social inequalities and human rights are linked. It is also quite clear that our law, built within a philosophy that considers humans as superior to nature, is neither able to prevent nor stop the catastrophe.

In June 2019, the UN Special Rapporteur on extreme poverty and human rights, Philip Aston, denounced a ‘climate apartheid’: ‘We risk a “climate apartheid” scenario where the wealthy pay to escape overheating, hunger, and conflict while the rest of the world is left to suffer’, while climate change could push 120 million people to poverty by 2030.<sup>13</sup> Climate change indeed has a lot in common with slavery, colonialism and apartheid. It is a fight for resources when 1 percent of the global population owns 50 percent of the global wealth, the top 10 percent of emitters contribute 45 percent of global emissions, while the bottom 50 percent of emitters contribute 13 percent of global emissions.<sup>14</sup> It is a fight for land, as the poorest countries are the first to suffer from desertification or disappear under the seas. It is a fight for freedom and equal dignity.

At the global level, at the European level, but also at the national level, according to the NGO Germanwatch, France is the European country most impacted by weather-related events,<sup>15</sup> and life conditions are worsening for a growing number of people, especially those who are at the bottom of the social scale. This is why we launched the Notre Affaire à Tous organization, Our Common Matter. We had the urgent feeling that rights for nature had to be recognized and defended, to allow survival for all and not only for the wealthiest. We had the urgent feeling that it would only be achieved through a new universal set of rights, which could be built either through lobbying states or through a new jurisprudence. We had the urgent feeling that pushing lawyers to join forces with us was essential. We thought that an organization that could gather climate lobbyists, lawyers from all sectors, more traditional social movements and all the different kinds of victims would be a key.

And we did not stop there. In France, as everywhere, litigation has always accompanied the battles for rights. In the nineteenth century, workers fought for their rights against the leaders of the industrial world. They did so by walking in the streets, by organizing strikes, and through litigation. After an entire century of mobilization and debates, they obtained a new right: the right to be covered for any industrial accident or incident. This is the same kind of war that we must wage today, except that it is even more vital.

Acting through climate litigation was not a fad. It was a strategic opportunity. A collective necessity. In some ways, a last attempt to finally get a peaceful answer before the world falls into chaos. At a time when movements such

as Youth for Climate/Fridays for Future, We Rise Up, Extinction Rebellion or Alternatiba are taking civil disobedience action, we support them in front of the tribunals defending a ‘state of necessity’. The state of necessity means that the use of illegal actions can actually be considered legal when citizens are facing an imminent and grave threat.

At a time when fossil fuel companies keep on increasing their production capacities, we ask them to respect the Paris Agreement and contribute to the climate change battle, as any citizen of the world should do. We gathered 14 collectivities and three other NGOs to launch ‘Vigilance TOTALE’, a climate litigation action echoing the complaints of many collectivities in North America and of the Peruvian farmer Saúl Luciano Lliuya against the carbon majors. This action is based on the recent French ‘duty of vigilance’ law, requiring multinationals to protect human rights and the environment throughout their supply chains and activities.

But our main aim was to hold our government responsible, to oblige it to act. *L’Affaire du Siècle* is an application against France for failure of action regarding its climate policy. We asked first the French state, then the Administrative Court of Paris, to act in a way that could remedy the delays marring all sectors of climate policy. We claimed that the international commitments on human rights issues as well as on climate and environmental matters, that the European commitments regarding human rights and climate goals, and our national commitments through the law were being denied and violated. We asked the judges to recognize as a general principle of law an obligation to act, and to take all necessary measures to reach the goals written in the law. The Court now must answer our claims and requests.

## L’AFFAIRE DU SIÈCLE

*L’Affaire du Siècle* was not aimed to be our private contribution to the battle. We wanted it to be a collective, a general action. But, as we feared our action would be rejected by the Court on individual grounds – just like the Dutch Court rejected the application of the 886 citizens in the *Urgenda* case (see Chapter 15) but accepted the complaint from the association *Urgenda* – we chose for this action to be led by NGOs. We chose to gather the three environmental organizations Greenpeace France, La Fondation pour la Nature et l’Homme and the solidarity NGO Oxfam France, in order to illustrate our environmental and social concerns.

To awaken citizens’ conscience, we wanted to gather personal testimonies about how climate change is upsetting our lives, and we put victims on the front line of the battle. We worked very hard to launch the case with many and diverse allies, such as Cyril Dion, Marion Cotillard and Juliette Binoche from the movie industry; Abd al Malik and L.E.J. from the music industry; come-

dian Élie Seimoun; Pablo Servigne, Aurélien Barrau and other ecologists; and web influencers.

We asked many other organizations to gather forces and look for the broadest support ever brought together from civil society. With success. L’Affaire du Siècle is the largest petition in the history of France, gathering more than 2 million signatures in two weeks. A way to tell the courts that we care, a way to put pressure on the French state so that it would at last act.

Our success is relative. The Minister of Ecology first tried to pit us against the yellow vest movement so that he could justify his inaction by a supposed and politically constructed ‘equilibrium of social forces’. To our request, the government just answered that it was already doing everything in its power, and that companies and citizens were preventing climate action and the curb of emissions. No explanations on the huge delay on transportation or housing were given, although these sectors depend entirely on public policies. No decisions on aviation, maritime transportation, agriculture or on socially fair environmental taxation were taken. No upgrade of French proposals for the European Union or the world were made.

In December 2019, almost no sign of policy change could be perceived, but we will keep trying and trying, until the tribunals prove us right.

## IN THE NAME OF THE EARTH

By its numerical strength, our action is unique. But we belong to a more global movement. We act for all and we act for the planet, using the law, and we are becoming increasingly numerous all over the world. Notre Affaire à Tous was helped by our US counterpart Our Children’s Trust, our Dutch victorious counterpart Urgenda, our European partners CAN Europe and climate change lawyer, author and climate change activist Roda Verheyen. It’s our turn to help: the Italians, the Slovenians and all the others who would like to launch massive climate litigation actions in their countries, to push their governments and/or their economic sector to act. Acting alongside throughout the world is an obligation. It is also a testimony of the world we want to build – a world of solidarity.

We have hope. The victories of Urgenda in the Netherlands, of DeJusticia in Columbia, of farmer Ashgar Leghari in Pakistan, of the Amadiba Crisis Committee in South Africa, show that we can win. The victories of some American citizens and families, or French farmer Paul François against Monsanto, also prove that we can beat the polluters. We managed to gather 15 cities to file a lawsuit against Total. Thousands of complaints are being filed against the polluters and their banks. We have lost a lot. But it does not always have to be that way.

We also rely on the victories of nature. In the US, in New Zealand, in India, in Columbia and in a growing number of countries, the legal rights of natural entities and ecosystems are being finally recognized. They earn it through the law but especially through litigation. France is still not open to that. But we know that time will come soon. This time, by establishing new massive solidarity between humans and with all the living, we will win.

## NOTES

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