

The Story of Our Lives
Narrative Change Strategies in Climate Litigation

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Narratives are about invisible power. How perceptions, belief systems and ideology shape the way people define what is ‘right’ and what is ‘wrong’.

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This chapter examines the role that stories and narratives can play in the development of climate litigation strategies. Section 15.1 covers an introduction to thinking on narratives, the way they work to support or challenge the status quo, and some helpful definitions. Section 15.2 looks at some examples of successful reframings of narratives in campaigns. Section 15.3 draws on the existing literature on narratives in climate litigation to highlight some dominant narratives that are problematic and some new narratives that are being deployed. This chapter concludes with a suggested checklist for considering narratives in climate litigation strategy and case work and pointers to additional resources and networks.

15.1 INTRODUCTION

Narratives are not something that happen ‘over there’, they are part of us and we are part of them. We can challenge or reinforce narratives on a daily basis. We see powerful damaging narratives at work in the COVID-19 response, and in systems of oppression that perpetuate inequality. We can use this knowledge to guide us now and as we move into the future.²

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¹ Isabel Crabtree-Condor, *Narrative Power and Collective Action* (Oxford: Oxfam, 2020), p. 12.

² *Ibid.* at 9.

Narrative knowledge and framing know-how can help ensure that climate litigation not only achieves an outcome within the case but also works on a deeper level to connect with people and shift power, helping to transform underlying ideas, norms, and systems. The scale and speed at which a just transition needs to be implemented far outpaces the timelines of litigation – to secure 1.5 degrees, climate advocates need to build political power and lots of it.

So, how can cases be designed so that, in addition to securing a legal result, they achieve greater, quicker impact by working to strengthen and diversify the climate justice movement? Where can the cases connect to new emerging stories and narratives that are able to motivate and engage more people, and where can litigation be part of shifting the dial on what is considered common sense and on what people believe is possible? And also, importantly, how can litigators avoid playing into damaging dominant narratives that are constraining collective global action?

15.2 WHAT IS A NARRATIVE CHANGE STRATEGY?

Story, as it turns out, was crucial to our evolution Opposable thumbs let us hang on; story told us what to hang on to.

Lisa Cron³

Storytelling and deploying narratives are not new – in many ways, they are instinctual, and different approaches and practices happen in many different spaces. The power of storytelling in fostering change is an area of professional focus across many disciplines. Oxfam and On Think Tanks collaborated on a project to interview diverse people from across the globe about their role in challenging and reshaping narratives, as part of Oxfam's work on protecting and opening civic space. The people interviewed come from different sectors and disciplines – from activism to the arts and strategy to science and marketing. They shared their knowledge, ideas, tips, and tactics from their lived experience in the anthology *Narrative Power and Collective Action*.⁴

The conversations started in the anthology on the power of narrative and collective action for positive change continue beyond it. With respect to designing litigation and case strategies, joining this conversation can foster greater consciousness of how the story/ the case tells and the narratives it

³ Lisa Cron, *Wired for Story: The Writer's Guide for Using Brain Science to Hook Readers from the Very First Sentence* (New York: Random House, 2012).

⁴ See Crabtree-Condor, *Narrative Power and Collective Action*, above note 1.

engages can reinforce or disrupt the status quo and thus contribute to, or disrupt, the efforts of the wider climate movement.

The conversations contained in the anthology underscore that narratives are a form of power that can mobilize and connect, as well as divide and isolate. Social, public, or dominant narratives help to legitimize existing power relationships, prop them up, or make them seem natural.⁵ Narrative frames also ‘structure for the audience the cause of social problems and prescribe which actors should or should not act to address them’.⁶ Section 15.2 will look at some concrete examples of how movements have tackled dominant narratives and established new narratives.

Below are some definitions from allies working in this field (Frameworks Institute and The Narrative Initiative):

Narrative change: ‘A narrative reflects a shared interpretation of how the world works. Who holds power and how they use it is both embedded in and supported by dominant narratives. Successful narrative change shifts power as well as dominant narratives.’⁷

Frames: ‘Sets of choices about how concepts are presented: what to emphasise, where to start, how to explain it, what to leave unsaid. The way information is framed has dramatic effects on what people think, feel and are willing to do.’⁸

Stories: ‘In a story, something happens to someone or something. Typically, a story has a beginning, middle and end. Stories transmit a society’s ideas, beliefs, behaviours, humour, style and trends from one person to another, that collectively create the culture we live in. **Stories are told.**’⁹

Narratives: ‘Narratives permeate collections or systems of related stories. They have no standard structure, but instead are articulated and refined repeatedly as they are instantiated in a variety of stories and messages. **Narratives are understood.**’¹⁰

Deep narratives: ‘Deep narratives are characterized by pervasiveness and intractability. They provide a foundational framework for understanding

⁵ Ibid.

⁶ Lissy C. Friedman et al., ‘Tobacco Industry Use of Personal Responsibility Rhetoric in Public Relations and Litigation: Disguising Freedom to Blame as Freedom of Choice’ (2015) 105 *American Journal of Public Health* 250, 250.

⁷ ‘Narrative Change: A Working Definition (And Some Related Terms)’ (emphasis in original), The Narrative Initiative, 15 May 2019.

⁸ ‘Framing 101’, Frameworks Institute, <<https://www.frameworksinstitute.org/tools-and-resources/framing-101/>>.

⁹ ‘Narrative Change: A Working Definition (And Some Related Terms)’ (emphasis in original), above note 7.

¹⁰ ‘What Is a Narrative?’, The Narrative Initiative, <<https://narrativeinitiative.org/what-is-narrative/>>.

both history and current events, and inform our basic concepts of identity, community and belonging. Just as narratives permeate collections of related stories, so too do deep narratives permeate collections of related narratives. It is difficult to connect with audiences directly at the level of deep narrative, but higher level narratives can provide a way in.¹¹

This is powerful because narratives trigger emotions – hope, empathy, fear, guilt – which are hugely influential in terms of how a person will respond to an issue. Will they support climate action or feel excluded or demotivated – or even antipathy?

For the purpose of this chapter, there are four key relevant learnings from the Narrative Power and Collective Action collaboration to highlight, though there are many more beyond these as well.

First, who tells the story and who shares the story are critical considerations. Whose existence and experience is elevated? Who needs to see themselves in the story? Who needs to share the story for it to be credible – trust and legitimacy are key. Can the story be told in a different way that better connects with people and their lived experience? For climate litigation, this involves reflecting with allies on the potential claimants and spokespeople for a case, as well as on the facts it will present.

Second, the strategies deployed in climate litigation will be asymmetrical relative to those strategies supporting a currently dominant narrative. Climate litigators can't meet, for example, the narrative strategies deployed by populists or climate change deniers like for like, so climate litigators need to examine how to bridge movements; short circuit power with humour, culture, and hope; cut through the noise; and foster connections. Litigators can draw on the skills of climate communicators in the movement to construct communication strategies that make the best use of the moment created by litigation to drive narratives that will motivate people to support climate action.

Third, reacting to the dominant narrative can backfire and reinforce the dominant message as well as lock litigators into an existing power dynamic. Instead, litigators can aim to 'flip' the narrative and drive a new narrative that does not need to be seen as related.

Fourth, with respect to narratives, climate advocates have to walk the talk. Advocates cannot challenge a narrative that the climate movement is (at least in the Global North) urban, white, and elite if that contains a painful element of truth. Similarly, what they do is the message. So, if advocates want to say

¹¹ Ibid.

that climate action is for everyone, then the climate movement needs to genuinely reflect that. The movement needs to be that new narrative as well.¹²

The Narrative Initiative's practical Four Baskets tool is helpful for thinking about the capacities and processes needed to create, implement, and continually strengthen narrative change projects. The most helpful narratives should be identified by climate movements working together in a particular context, with climate litigators joining as a part of that movement. Climate litigation can then consciously be considered in terms of how it can support and achieve impact across the following four ingredients the Narrative Initiative identifies: (1) create (articulate the new narrative as well as the old dominant narrative that advocates are trying to shift away from); (2) translate (identify the audiences that need to adopt this narrative and find ways to express the narrative that are meaningful to them); (3) drive (move the narrative into the public domain by designing effective narrative interventions, while mapping the channels and tools that will be used); and, finally, (4) observe (map where the new narrative is being adopted).¹³

15.3 NARRATIVE CHANGE IN CAMPAIGNS FOR ACTION

You can pay a whole team of publicists to come up with a slogan, or you can give a few kids a spray can and some cardboard and boom, you have one that really connects with people.

Elena Mejía Julca, feminist, rapper and youth collective leader, Peru

15.3.1 *Ley Pulpin, Peru*¹⁴

Narratives supporting the status quo in Peru and undermining social change include narratives like 'people are poor because they want to be, they don't make an effort' and, in relation to activists, 'they are all corrupt and get into this work to get a good salary and live off people's poverty'. These formed part of the backdrop to a movement of youth activists in Peru challenging a new law, the *Ley Pulpin*, which was promoted as something that would benefit young workers, but analysis of the legislation showed that it was in reality more

¹² See Krizna Gomez and Thomas Coombes, *Be the Narrative: How Changing the Narrative Could Revolutionize What It Means to Do Human Rights* (Oxford: Just Labs & Fund for Global Human Rights, 2019).

¹³ See Rachel Weidinger, 'Four Baskets: Necessary Capacities for Narrative Change', The Narrative Initiative, 30 July 2020.

¹⁴ Isabel Crabtree-Condor, 'Elena Mejía Julca: The Creative Activist', On Think Tanks, 28 October 2020.

about deregulation and obtaining cheap labour from young workers. A movement led by young people came together to challenge the law. In Elena's words:

When we took to the streets there were some amazing placards, people can be super creative making catchy slogans. Someone came up with 'Cholo, pero no barato'. Everyone understood this new narrative, there were more placards saying this and people started using the phrase. It unified the message and cut through the noise. The 'Cholo pero no barato' framing has a lot of cultural baggage – a deep connection to Peru's history. But those meanings are not static. A great thing about working with young people is you see them appropriating words. When people are really living the issue, they take ownership of the creative process. It's their fight and that's where the impressive creativity flows.¹⁵

Together, the new slogan and stories engaged new positive narratives of pride in young Peruvian workers.

15.3.2 *Even It Up: Economic Inequality*

Even it Up is a campaign against extreme economic and social inequality, which threatens to reverse progress on eradicating poverty. It was launched in 2014 and is Oxfam's 'biggest ever worldwide campaign'. Robust independent evidence made the link between inequality and poverty clear; however, talking about economic inequality quickly engages deep narratives that are explicitly deployed to maintain the status quo in many economies. The most fundamental of these is the narrative that economic inequality is inevitable. Linked narratives are that extreme wealth is aspirational, that wealth trickles down without state intervention, that wealth or poverty always reflect effort or skills, and that people are poor as a result of their own actions.

The campaign recognized the many positive narratives that could also be engaged through work on economic inequality and that being able to engage these would be critical to building pressure and political will and ultimately securing policy change (on progressive taxes, on work and wages, and on quality health and education for all). So, the campaign looked at how it could communicate its messages to support existing but less dominant narratives, including that extreme inequality hurts everyone, that high levels of economic inequality are the result of political and economic choices, and that people can demand change.

¹⁵ Ibid.

15.3.3 *Human Stories*

The book *Narrative Power and Collective Action* includes an interview with Aidan Miller of Cast from Clay, who references the organization's research findings that emotion plays an important role not only in how the majority of the population form their (small p) political views but in how policymakers form their political views as well. Strong facts and policy arguments are not enough, on their own, to motivate people to take action. Evoking something deeply human in audiences and finding stories to which people can relate and which create empathy can help connect more people and make alternative ideas seem relatable and possible.

Even it Up launched with an extensive research report¹⁶ that informed a range of communications, including a flagship film called *Hard work. Fair reward?* The film tells the story of Lan, who works long hours in a factory in Vietnam producing shoes for global fashion brands. She makes 1,200 pairs per day but doesn't earn enough to buy one pair for her son. She's forced to live far away from her two young children. Through the film, we learn that a garment worker in Vietnam often earns less than eight dollars a day, whilst a CEO of a top fashion brand earns almost 16,000 dollars a day. Lan's life and working conditions powerfully connect with a different narrative – that high levels of economic inequality are the result of structural problems rather than an individual lack of effort on the part of those trapped in poverty. The film engaged people's instinctive feeling that there is something wrong with such extreme levels of inequality.

The campaign also used simple, powerful statistics to expose the scale of extreme inequality and drive new narratives. The first statistic used for the launch of the campaign was that 'at the start of 2014, Oxfam calculated that the richest 85 people on the planet owned as much as the poorest half of humanity'.¹⁷ These simple, stark figures cut through the noise and have been widely repeated and adopted. Oxfam published an updated key statistic in an annual report on economic inequality, published each year ahead of Davos, an elite gathering. Each year the new statistic was widely anticipated and shared, helping to drive the campaign on extreme economic inequality.

¹⁶ See 'Even It Up: Time to End Extreme Inequality' (2014) Oxfam, <https://www-cdn.oxfam.org/s3fs-public/file_attachments/cr-even-it-up-extreme-inequality-291014-en.pdf>.

¹⁷ Ibid. at 8.

Through the combined efforts of many national and global campaigns, the narrative that extreme economic inequality hurts us all, stymies poverty eradication, and results from political and economic choices rather than being an inevitability has been adopted by many. Increasingly, there are specific actions to address it. This includes, for example, action in the United Kingdom on tax havens that enable multinational corporations to avoid paying taxes on profits generated in developing countries, which could, if paid, be used to fund quality healthcare and education. Yet there is still a long way to go to translate words into action at a global level, and Oxfam continues to work with allies on the campaign.

15.4 NARRATIVES IN CLIMATE LITIGATION

You can have the best policy argument, with the best facts and evidence, but in the end it's the best story that wins.

Aidan Muller, *Cast from Clay*

Shifting or changing sticky narratives that maintain the status quo requires collaboration and creative collective action at a scale not seen before.¹⁸ Climate activists working at different levels need to explore together which new narratives have the potential to shift power on this issue. This could be achieved by amplifying existing narratives or forging new ones that connect geographies and realities. Working in collaboration means exploring the ideas that different actors can bring to the table and testing out different approaches to see what resonates with those with whom we want to connect.

In this section, we draw on existing excellent and in-depth analyses of narratives in climate litigation,¹⁹ along with current climate litigation,²⁰ to draw out some common themes within narratives identified as damaging and

¹⁸ See Crabtree-Condor, *Narrative Power and Collective Action*, above note 1.

¹⁹ See Kim Bouwer, 'Lessons from a Distorted Metaphor: The Holy Grail of Climate Litigation' (2020) 9 *Transnational Environmental Law* 1; see also Ezra M. Markowitz and Azim F. Shariff, 'Climate Change and Moral Judgment' (2012) 2 *Nature Climate Change* 243; see also Jacqueline Peel and Hari M. Osofsky, 'A Rights Turn in Climate Litigation?' (2018) 7 *Transnational Environmental Law* 37; see also Grace Nosek, 'Climate Change Litigation and Narrative: How to Use Litigation to Tell Compelling Climate Stories' (2018) 42 *William and Mary Environmental Law and Policy Review* 733; see also Chris Hilson, 'Climate Populism, Courts and Science' (2019) 31 *Journal of Environmental Law* 395.

²⁰ See Joana Setzer and Rebecca Byrnes, 'Global Trends in Climate Litigation: 2020 snapshot' (2020) Grantham Research Institute on Climate Change and the Environment.

currently dominant, as well as within positive narratives with the potential to drive change. This body of work provides a solid foundation with which to connect climate litigation with the broader narrative work of the climate movement.

The literature fleshes out the psychological barriers to public support for climate action (Nosek), the relationship of climate action to morals and values (Markowitz and Shariff), the partisan nature of people's responses to climate action (Peel and Osofsky), and populist narratives on climate change (Hilson). They set out how, by circumventing the partisan political divides that have typically pervaded support for climate action,²¹ litigation and the narratives used in climate change litigation can act as a unifying force in 'influencing public debate and social norms'.²²

15.4.1 Damaging Narratives

One pervasive narrative is that climate change is a global phenomenon and, as individuals, everyone is 'exposed to messages that hold [us] accountable for causing environmental damage as an unintended side effect of [our] behaviour and lifestyle'.²³ By making every individual responsible in this way, the narrative can have the opposite effect in that no one is truly accountable for the creation of climate change.²⁴ As such, the biggest polluters²⁵ are 'let . . . off the hook'²⁶ for their culpability, as individuals will instead burden themselves with guilt.

A second narrative is the idea that climate change 'will most negatively affect individuals who live in faraway places [for people living in affluent places], or who will live in the future or both'.²⁷ This uncertainty around future time scales can also inspire a form of 'wishful thinking'²⁸ in that

²¹ See Hari M. Osofsky and Jacqueline Peel, 'Energy Partisanship' (2016) 65 *Emory Law Journal* 695, 695.

²² Nosek, 'Climate Change Litigation and Narrative', above note 19 at 737.

²³ Markowitz and Shariff, 'Climate Change and Moral Judgment', above note 19 at 244.

²⁴ See Nosek, 'Climate Change Litigation and Narrative', above note 19 at 791.

²⁵ See Paul Griffin, 'The Carbon Majors Database: CDP Carbon Majors Report 2017' (2017) Carbon Disclosure Project.

²⁶ Mary Annaise Heglar, 'I Work in the Environmental Movement. I don't Care If You Recycle.', *Vox*, 4 June 2019.

²⁷ Anthony Leiserowitz et al., 'Climate Change in the American Mind: Americans' Global Warming Beliefs and Attitudes in May 2011' (2011) Yale University & George Mason University.

²⁸ See Jacqueline Peel and Hari M. Osofsky, *Climate Change Litigation: Regulatory Pathways to Cleaner Energy* (Cambridge: Cambridge University Press, 2015), p. 52.

individuals hope that the negative impacts of climate change might not be as severe as predicted. This narrative can also be used to reinforce an ‘us vs. them’ mentality, letting one group off the hook whilst ‘othering’ another group that is blamed or ignored.

There are many more – that climate is an elite concern, that climate action is anti-jobs, and the range of local values and beliefs used to undermine collective climate justice action.

15.4.2 *Challenging Negative Climate Change Narratives*

Litigation in itself can be a key mechanism to combat the climate change narrative that no one is truly accountable. As a result ‘of the adversarial nature of lawsuits and standing requirements, plaintiffs must identify who to blame for a particular action and how that action has harmed them. Thus, lawsuits might be particularly well suited to apportioning blame for climate change, thereby motivating the public to support corrective action’.²⁹

The anti-tobacco movement is an example of previous movements that have successfully challenged this narrative of ‘blamelessness’.³⁰ The anti-tobacco movement successfully reframed the narrative to suggest that tobacco companies and governments had not only been aware of the risks of smoking but knowingly created these risks.³¹ This narrative can be applied to climate change litigation to support the idea that climate change was intentionally created and therefore constitutes a ‘wrong that demands to be righted’.³² Indeed, ‘the public is likely to react more forcefully given that climate change, as with tobacco in the past, has involved governments and industry continuing with the status quo despite long term knowledge of the risks’.³³ The anti-tobacco movement also successfully framed the narrative that second-hand smoking ‘was claiming innocent lives’³⁴ and, as a result, could apportion this blame to tobacco companies and governments. This type of narrative approach can be seen in the ‘knowing deception’ framing of the New York Attorney General’s prosecution of Exxon for deceiving investors about the true cost of climate change and in the framing of the inquiry of the Philippines’

²⁹ Nosek, ‘Climate Change Litigation and Narrative’, above note 19 at 754–55.

³⁰ See Markowitz and Shariff, ‘Climate Change and Moral Judgment’, above note 19 at 244.

³¹ Nosek, ‘Climate Change Litigation and Narrative’, above note 19 at 766.

³² Markowitz and Shariff, ‘Climate Change and Moral Judgment’, above note 19 at 243.

³³ Hilson, ‘Climate Populism, Courts and Science’, above note 19 at 395–98.

³⁴ Nosek, ‘Climate Change Litigation and Narrative’, above note 19 at 791.

Commission on Human Rights into the responsibility of the Carbon Majors for the human rights impacts of climate change currently happening in the Philippines.

The Youth Climate Movement³⁵ and the worldwide striking of school children for climate action have been pivotal in influencing the general public and driving home the reality that climate change will have implications for everyone, everywhere. With respect to climate change litigation, it has been argued that ‘communicators should adopt techniques that increase individuals’ affinity and identification with future generations (for example, focusing specifically on identifiable future others such as one’s children), which can diminish interpersonal distance, decrease social discounting, limit egocentric biases and enhance intergenerational beneficence’.³⁶ Global cases that have successfully engaged an ‘innocent victim’ and youth focus include *Juliana*³⁷ and *Future Generations*.³⁸

Whilst the story being told is clearly important, ‘who is doing the communicating’ is equally important, as evidenced above.³⁹ Hilson highlights the potential of harnessing some of these approaches, like a narrative style of communication, and bringing cases ‘by a claimant that can be seen as representing the people’.⁴⁰ Climate cases will evoke stronger support when knowledgeable and ‘trusted members of a person’s cultural group’⁴¹ are heard, ‘who can help to build acceptance of a particular issue through “vouching” for information and showing it fits with the groups pre-existing worldview’.⁴² One can look to *Saúl Luciano Lliuya v. RWE*, the Carbon Majors petition in front of the Philippines’ Commission on Human Rights, and *Union of Swiss Senior Women for Climate Protection v. Swiss Federal Council and Others* as examples of climate litigation where the claimants both represent trusted members of a group not easy to dismiss as part of a Northern climate elite bubble and also of cases that tell a very clear story about the impacts of climate change that are happening right now.

³⁵ See, e.g., Global Climate Strike, <<https://globalclimatiestrike.net/>>.

³⁶ Markowitz and Shariff, ‘Climate Change and Moral Judgment’, above note 19 at 245.

³⁷ See *Juliana v. United States*, 46 ELR 20175 (D.Or. 2016).

³⁸ See Corte Suprema de Justicia [C.S.J.] [Supreme Court], Sala de Casación Civil, abril 5, 2018, M.P.: L.A. Tolosa Villabona, Expediente 11001-22-03-000-2018-00319-01 (Colom.).

³⁹ Chad J. McGuire and Devon Lynch ‘Competing Narratives of Climate Change’ (2017) 19 *Environmental Practice* 218.

⁴⁰ Hilson, ‘Climate Populism, Courts and Science’, above note 19 at 89.

⁴¹ Osofsky and Peel, ‘Energy Partisanship’, above note 21 at 723.

⁴² *Ibid.*

Peel and Osofsky also identify the economic case and disaster resilience as positive narratives to develop in order to overcome energy partisanship. Hope, pride, and gratitude are underscored by Markowitz and Shariff as narratives that can generate enthusiasm for climate activism.

Climate litigators, in collaboration with others in the climate movement, can build on this work and draw upon new learning from other activists globally to achieve the most advocacy impact from each climate case filed.

15.5 LEARNING AND ACTIONS FOR CLIMATE LITIGATION

- It's clear that coordination and collaboration will be key to designing successful climate litigation with strong narrative strategies. Litigation needs to be integrated into national and global climate justice campaigns and movements, so that there's a shared theory of change and a shared understanding of the key dominant narratives and the new narratives that need to be driven.
- Climate litigators can join the conversation in *Collective Power and Narrative Action*. Part I of the book contains a link to sign up for a mailing list to receive part II in an email and invitations to join virtual conversations on different dimensions of narrative power and collective action, including identity, race, climate, filmmaking, fake news, brands, and more. People are also invited to share ideas for topics they would like to talk and learn more about.⁴³
- In designing climate litigation and considering other legal issues, litigators need to consider how the litigation will play in the court of public opinion and which narratives it will help to drive. What story does the framing tell? Who has the legitimacy and trust to tell that story, and how does that relate to the position of the claimant in the case? If an NGO is involved in the case, how are they working with the people directly affected by the issues?
- Once the litigation is running, like in all climate campaigns, litigators need to draw on creative communications and activism, drawing on the expertise of the full range of people with expertise on narrative change – social scientists, creatives, filmmakers, storytellers, marketing gurus, big data analysts, academics, think tanks, and more. Can visuals, film, art, music, memes, or humour communicate more effectively than more traditional methods?

⁴³ See Crabtree-Condor, *Narrative Power and Collective Action*, above note 1.

- Significant resources are needed to co-create narratives and share the learning on this fast enough and wide enough to secure the greatest impact over the next few years. Existing models for this include JustLabs and Narrative Power and Collective Action. How can funders support access to communications support for litigators? How can litigators collaborate to share channels and resources to drive new narratives?

