

Children's Rights Moot Court 2023, Leiden Law School

L.O & L.O. v. Criela

Prepared by Margaretha Wewerinke-Singh, Associate Professor of Sustainability Law at the Faculty of Law of the University of Amsterdam.

1. Criela is a highly developed country in the prosperous Global North. As the world's largest economy and an industrial superpower, Criela has been the world's top emitter of carbon dioxide since 1962. Additionally, Criela is the *de facto* leader of the G3 group (an intergovernmental political forum consisting of three of the world's advanced economies, including Criela and the two megastates Namoo and Arklan) which is responsible for 48% of global greenhouse gas emissions. Since the early 2000s, Crielian environmental activists have been advocating for the state to reduce its dependence on fossil fuels and transition towards cleaner energy sources.
2. Located almost at the other end of the world, Oshar is a 'least developed country' (LDC) in the Global South. For decades, climate change has been impacting Oshar's ecology, public health, and societal structures. Increasingly frequent droughts and unpredictable flooding are making agriculture difficult, causing spikes in malnutrition and other health conditions, rising economic inequalities, and conflict situations.
3. In 2008, Criela released a highly controversial environmental code – 'The Green Act' – with a stated purpose of accelerating the transition to sustainable societies through deregulation. The Green Act, per Section 14(3), waived several due diligence and other regulatory requirements for 'businesses involved... in the sourcing, processing, supply, or production of renewable energy, or any materials used predominantly for transitioning from fossil fuels to renewable energy.'
4. In 2009, a research team comprising experts from True Minerals Ltd., Criela's largest mining company, discovered a strange deposit of glowing blue ores in a cave located

in the Praya Villages region of Oshar. Further investigation revealed that these ores contained the mineral Denocyde-3, the chemical composition of which makes it ideal for powering electric zero-emission vehicles and increasing photovoltaic power generation.

5. News of this discovery broke all over the world, with commentators hailing Denocyde-3 as 'the long-sought key to sustainable energy transitioning'. Governments began pressuring Oshar to immediately liberalise its land and mining laws. The members of the G3 group successfully leveraged their diplomatic strength and negotiated lucrative mining permits for their companies. In December 2009 a cartel of mining companies set up operations in Oshar and began relentless expeditions and mass-scale digging all around the country.
6. The Ogranas are a native Osharian family from the indigenous Ubrein tribe living in the Praya Villages region. Luke and Leia were born as twins to the family in December 2005. The Ograna family, like most families in their neighbourhood, were swept up by the Denocyde-3 rush. The adult Ogranas obtained mining jobs in 2011 after an erratic heatwave destroyed their farming business. These mining jobs entailed long hours of digging in the sweltering heat for meagre pay. Making matters worse, Crielian companies made creative use of the Green Act to avoid liability for violations of international labour standards.
7. As a new generation of batteries, solar panels, components for electric vehicles, etc. swept the global market, public excitement over Denocyde-3 soared. Namoo and Arklan implemented environmental codes which mirrored Criela's Green Act, including the controversial provisions regarding business conduct. In 2015, while its members signed the Paris Agreement, the G3 group issued a declaration saying: 'Arklan, Criela, and Namoo are proud of taking the lead in the renewable energy revolution. Our companies will continue sustainably bringing Denocyde-3 to the entire world.'
8. Yet the impact of Denocyde-3 was severely felt by the inhabitants of Oshar, and in particular by their children. The same year, in 2015, Luke and Leia witnessed an

increase in tuition fees for primary and secondary schools in the Praya Villages region because the government was diverting its meagre resources from education to increase security at Denocycle-3 processing units and factories. Unable to pay the increased fees, many children across Oshar, including the Ograna twins, joined the workforce at their local mines. They had to crawl into makeshift underground shafts and dig out the daily ore quota using their bare hands. Continued exposure to the mines often led to respiratory and skin diseases, lower immunity, chronic stress, loss of eyesight, etc. These impacts were reported by the World Health Organization. In September 2015, the UN High Commissioner for Human Rights issued a statement expressing 'deep concern' about the situation of children in Oshar, in particular about child labour in the mining sector and the increasing costs of education.

9. Simultaneously, the effects of global warming were increasing in their impact upon the Global South. Several reports of the Intergovernmental Panel on Climate Change (IPCC) highlighted the particular vulnerability of the continent to the adverse effects of climate change. They established with the highest degree of confidence that prolonged drought, extreme weather events and unpredictable weather patterns resulting in crop failure, increased disease burdens and loss of life are attributable to global warming. Top historical emitters, including the members of the G3 group, had pledged adaptation support but in practice delivered no financial assistance beyond Official Development Assistance (ODA) amounting to 0.3% of their GDP. Future impacts of climate change were expected to worsen still, as the same top emitters had either made inadequate emissions reduction commitments or were failing to follow through. It was clear that as the climate crisis was becoming worse, every aspect of life was getting disrupted and threatened in Oshar.
10. On 9th June 2017, the Ubrein tribe mourned the migration of the *Bantha* bison (who were sacred to their culture) from the Praya Valley. The *Bantha* bison had migrated after the Praya river dried up due to years of increased heat. Luke and Leia, who were present at the sombre mourning event, were filled with terror at the prospect of a rapidly warming world ruining their society and family. They were not the only ones,

a general feeling of helplessness and powerlessness spread among the children of the Praya Villages.

11. Throughout 2018, wildfires swept across some parts of the Global South, including Oshar, destroying forests and agricultural lands and pushing more and more children into mining jobs. The situation worsened in the summer as droughts accompanied the wildfires and led to severe water shortages. In many parts of the country, including in Luke and Leia's locality, martial law was temporarily declared to quell resource conflicts.
12. During these crises, the only part of Osharian society that remained intact was the mining industry. In fact, more and more processing units opened around the countryside. Rapid Denocyde-3 processing generated huge amounts of toxic semi-solid waste, which was dumped in open fields, and fumes. These factories greatly polluted the air, land, and water sources near them. The Osharian government, despite much protesting and petitioning, declared itself unable to regulate the factories due to international pressure and lack of resources.
13. In January 2021, the Ograna parents and children (Luke and Leia) approached a Crielian court claiming violations of children's rights to health, education, culture, and a healthy environment under Crielian and international law. They alleged that Criela's lack of emission reductions exacerbated the climate crisis, and that the 'mitigation' measures were unjust and discriminatory against Osharian children. The court rejected the claim due to Section 138(5) of the Green Act, which provides that '[n]o court, tribunal, or other judicial body may hear claims brought by foreign nationals pertaining to climate actions.' The Ograna parents and children decided not to appeal to the higher courts because they felt that the courts had an inclination to rule in favour of 'big power' and against human rights. The children increasingly started to feel a sense of helplessness and powerlessness about their precarious situation.
14. The Ograna parents and children received legal advice from a non-profit law firm in November 2022 that the G3 states have collectively breached their international human rights obligations. Following internal discussions between the Osharian community,

the law firm lodged a communication with the Committee on the Rights of the Child on January 2nd, 2023, for violations of the rights of Osharian children against Criela. Luke and Leia are listed as the authors of the communication. Attached to the communication is a document with testimony from Luke and Leia, outlining how the impacts of climate change and the activities of the mining companies affect children's rights under the *UN Convention on the Rights of the Child, 1989 (UN CRC)*.

15. Criela has been a party to the *UN CRC* since its entry into force in 1990. In 2013, Criela ratified the *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, 2011*. However, it made reservations to Articles 24(c), 30, and 31 of the *UN CRC*. Criela also ratified the *Paris Agreement, 2015*, in 2016, and submitted a Nationally Determined Contribution pledging to reduce emissions by 2% by 2030 compared to 1990 levels.
16. The Committee on the Rights of the Child will convene in June 2023 for a hearing in the case of *L.O & L.O. v. Criela*. Minister of Foreign Affairs for Criela has indicated in an interview with a global media outlet that Criela considers the complaint to be "frivolous" and "without merit". Osharia's Prime Minister, in contrast, has shared a media article about the communication on Facebook commenting that "I applaud these brave children fighting for their rights!"
17. For the purposes of this Children's Rights Moot Court Competition, in assessing individual petitions under the *UNCRC*, the procedural and substantive considerations pertaining to the *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure* (see in particular Article 7) will be followed. It will also follow the guidelines drawn up by the Committee on the Rights of the Child (see www.ohchr.org).