THE IMPACTS OF CLIMATE CHANGE AND HUMAN RIGHTS:
SOME EARLY REFLECTIONS ON THE CARBON MAJORS INQUIRY

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Savaresi, Hartmann and Cismas, The Impacts of Climate Change and Human Rights:
The impacts of climate change and distributive justice
Key questions about liability for the impacts of climate change

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<th>Who?</th>
<th>State actors</th>
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<td>Non-state actors</td>
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<td>For what?</td>
<td>Damage to persons</td>
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<td>Damage to property</td>
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<td>Damage to the environment</td>
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<td>On what basis?</td>
<td>International law</td>
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<td>Rationale</td>
<td>Compensation/Restitution</td>
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<td>Prevention</td>
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<td>Internalization of costs - polluter pays!</td>
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Litigation scenarios

DeJusticia (Colombia)
Urgenda (Netherlands)
People’s climate case (EU)

http://climatecasechart.com/
The so-called Carbon Majors Inquiry

World's largest carbon producers face landmark human rights case

Filipino government body gives 47 ‘carbon majors’ 45 days to respond to allegations of human rights violations resulting from climate change.

Who?
Non state actors (Filipino citizens) taking on other non-state actors (Carbon Majors)

For what?
Violation of human rights (to life, to water, health, water, etc)

On what legal basis?
Human rights enshrined in the legal order of the Philippines, including through the implementation of international treaties.
What are the main challenges to the arguments put forward by the petitioners?

Extraterritoriality

Causation and attribution

Retrospectivity

Adequate remedial action

http://www.asiapacificforum.net/media/resource_file/APF_Paper_Amicus_Brief_HR_Climate_Change.pdf
Overcoming the challenges: causation and apportionment

The petitioners need to demonstrate that the obligations of corporations encompass human rights violations

- Increasingly established in the practice of human rights bodies – Lene Wendland

The petitioners need to prove that a specific corporation has contributed to climate change, in such a way as to amount to a breach of human rights

- Uncontroversial and increasingly recognized by scientists – Myles Allen

Is it possible to apportion responsibility for human rights breaches associated with the impacts of climate change?

- Proportionate liability and joint and several liability are increasingly common place – Roda Verheyen
Overcoming the challenges: retrospecitvity

Evidence of corporations’ awareness of climate change and its impacts is increasingly being uncovered

Influence Map: [https://influencemap.org/](https://influencemap.org/)

Failure to act on this knowledge may be regarded as a source of responsibility

The importance of the Carbon Majors petition

• Recognition of **human rights bodies’ powers** to investigate complaints concerning activities of corporations not headquartered in the Philippines (already established)

• Recognition of **corporate responsibility for human rights violations** caused by climate change impacts (to be determined and potentially a primer)

Conclusions: The role of human rights

A means to address complex distributive justice questions associated with climate change

Providing remedies to redress harm where none are available

Working as an interim gap filler in an area where more specific forms of liability are likely to emerge in future

An aid in bringing about a change in culture by courts and lawmakers