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

**Dr Annalisa Savaresi**

Lecturer and Co-Director, LLM/MSc in Environmental Policy and Governance,  
School of Law, University of Stirling

Savaresi, Hartmann and Cismas, The Impacts of Climate Change and Human Rights:  
Some Early Reflections on the Carbon Majors Inquiry (2018)

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3277568](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3277568)

# The impacts of climate change and distributive justice



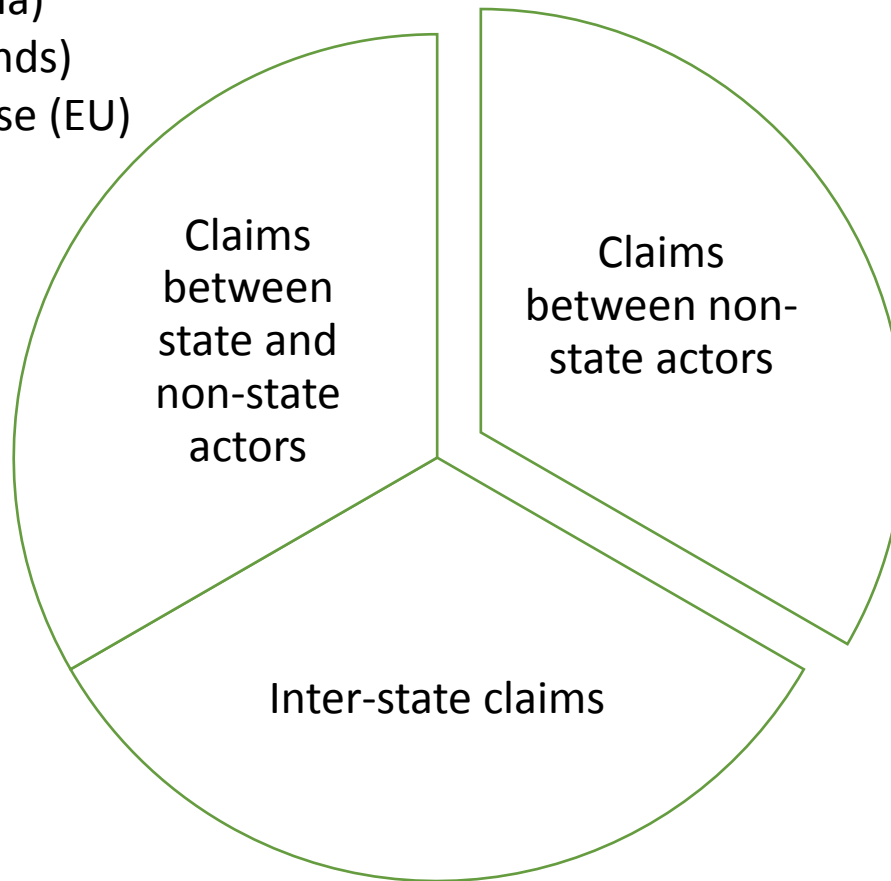


# Key questions about liability for the impacts of climate change

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

# Litigation scenarios

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



# 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



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## Who?

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

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## For what?

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

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## 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?

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Extraterritoriality

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Causation and attribution

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Retrospectivity

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Adequate remedial action

# 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: retrospectivity

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

Influence Map: <https://influencemap.org/>

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

Shue H, *Climate Justice: Vulnerability and Protection* (Oxford University Press 2014)



# 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)

<https://www.ejiltalk.org/the-philippines-human-rights-commission-and-the-carbon-majors-petition/>

# 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