



Carbon Majors: People vs. Big Polluters

The Philippine Commission on Human Rights is investigating 47 'Carbon Majors' for their contribution to climate change and resulting human rights violations.

Problem Analysis

This case exposes the crime of corporations continuing to fuel climate change whilst deriving huge profits from it. Climate change is fueling extreme weather events such as ferocious typhoons and severe droughts that batter vulnerable nations like the Philippines, discussed in this case. As a test case for remedies using the human rights framework, the complaint highlights the failure of the current corporate accountability system to ensure extraterritorial accountability for human rights implications of climate change and the lack of access to remedy for its victims.¹

Company

Companies: 47 investor-owned carbon majors²

Head offices: United States, UK, Germany, France, Italy, Switzerland, Netherlands, Spain, Austria, Canada, Russia, Australia, Japan, Mexico and South Africa.

Company background

Detailed information on all companies can be found online³

Company activity

Carbon majors are extraction and energy industries active in the extraction, production and sale of coal, oil, gas, cement, electric power and other raw materials.

Country and location in which the violation occurred

Australia, Austria, Canada, France, Germany, Italy, Japan, Mexico, Netherlands, Philippines, Russia, Spain, South Africa, United Kingdom and United States.

Summary of the case

On 22 September 2015, Greenpeace Southeast Asia, together with 13 Filipino civil society organisations and 18 individuals filed a petition against the world's largest fossil fuel producers, the Carbon Majors. The petition implores the Commission on Human Rights (CHR) to use its investigatory, recommendatory, and monitoring powers to look into the Carbon Majors' responsibility for human rights violations

or threats thereof, resulting from the impacts of climate change. Specifically, the petitioners ask the CHR to take official or administrative notice of the scientific basis of the petition concerning the human rights implications of climate change, ocean acidification and the estimated responsibility of the Carbon Majors.⁴

The petition draws on recent peer-reviewed research undertaken by Mr. Richard Heede of the Climate Accountability Institute. This research quantified and traced emissions of carbon dioxide and methane from 1854 to 2010 to the largest multinational and state-owned producers of crude oil, natural gas, coal, and cement – the Carbon Majors.⁵ These findings are of serious importance and consequence to the Philippines due to the country's high vulnerability to the impacts of climate change. The findings call attention to the role of the Carbon Majors because these producers contributed a significant portion of the estimated emissions of greenhouse gases. According to the Intergovernmental Panel on Climate Change (IPCC), continued emissions of these gases "will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive, and irreversible impacts for people and ecosystems."

The petitioners claim that as a result of the Carbon Majors' contribution to global climate change; their failure to curb those emissions despite the capacity to do so; these companies' knowledge of the harm caused; and their potential involvement in activities that have been or may be undermining climate science and action, they are violating or threaten to violate the human rights of all Filipinos as contained in the 1987 Constitution of the Philippines, as well as the various international human rights treaties to which the Philippines is a signatory. In addition, the petitioners claim violations or threatened violations to the right to health, and the right to a balanced and healthful ecology. The Petition asks the Commission to take note of the fact that climate change and ocean acidification have harmed or increased the risk of harm to the Filipino people generally, including increased risk of extreme weather events, such as super-typhoon Yolanda, which killed more than 6,000 people. It also provides evidence of specific harms suffered by individual petitioners from Alabat Island, Quezon Province, who have had to relocate their homes due to sea level rise and have experienced declining fishing catches and reduced agricultural productivity.⁶

The Commission resolved to conduct an investigation in response to the petition in December 2015. The investigation is on-going in the form of a national inquiry.^{7,8,9} The Commission, a body established by the Constitution, has a mandate to investigate and monitor all forms of human rights violations and abuses, as well as threats of violations, involving civil and political rights and economic, social and cultural rights. Although the Commission is not a judicial body, its finding of fact is generally accorded great respect by courts, as well as by Congress and the Executive Department. It has the power to compel persons accused of human rights violations to attend and testify at hearing or public inquiry or to produce relevant documentation. The Commission can also recommend that a claim be filed with a competent court.¹⁰ By May 2017 several of the Carbon Majors had submitted their respective rejoinders to the Commission.¹¹

The role of governments in the home countries of the Carbon Majors is to provide regulation and to ensure that the companies in their territories respect human rights within and outside their national boundaries. The role of the Philippine government in the is to protect, fulfil, promote and monitor the human rights of Filipinos in the context of climate change.¹² Home state accountability is also demanded in the petition.¹³

Endnotes

- 1 "Holding the big carbon polluters accountable for climate change," Greenpeace, 12 August 2015, <http://www.greenpeace.org/seasia/ph/What-we-do/Demand-Climate-Justice/Holding-the-big-carbon-polluters-accountable-for-climate-change>
- 2 Alpha Natural Resources, Anadarko, Anglo American, Apache, Arch Coal, BG Group, BHP Billiton, BP, Canadian Natural Resources, Cemex, Conoco Phillips, Consol Energy, Devon Energy, Encana, ENI, Exxonmobil, Freeport McMoran, Glencore, Heidelbergcement, Hess, Holcim, Husky Energy, Italcementi, Kiewit, Lafarge, Lukoil, Luminant, Marathon, Murphy Oil, Murray Energy, North American Coal, Occidental, Omv Group, Peabody Energy, Rag, Repsol, Rio Tinto, Rosneft, Rwe, Sasol, Shell, Suncor, Taiheiyō Cement, Total, UK Coal, Westmoreland Coal, see also http://climateaccountability.org/carbon_majors.html
- 3 See Petition and Consolidated Reply. These documents can be found here: "The Climate Change and Human Rights Petition," Greenpeace Philippines, 28 July 2016 at: <http://www.greenpeace.org/seasia/ph/press/releases/Worlds-largest-carbon-producers-ordered-to-respond-to-allegations-of-human-rights--abuses-from-climate-change/The-Climate-Change-and-Human-Rights-Petition/> (accessed at 7 December 2017)
- 4 Ibid.
- 5 Richard Heede, "Tracing anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers, 1854–2010," *Climatic Change*, January 2014, at <https://link.springer.com/article/10.1007/s10584-013-0986-y> (accessed at 7 December 2017)

6 Please see all footnotes under the Prefatory Statement (p. 2) and Statement of Facts (pp. 12–17) of the Petition and the Prefatory Statement and Conclusion of the Consolidated Reply – they are all citations in support of the summary of facts discussed above. The Petition, Consolidated Reply and other relevant documents and information can be found here: <http://www.greenpeace.org/seasia/ph/press/releases/Worlds-largest-carbon-producers-ordered-to-respond-to-allegations-of-human-rights--abuses-from-climate-change/The-Climate-Change-and-Human-Rights-Petition>

7 Emma Howard, "Philippines investigates Shell and Exxon over climate change," *The Guardian*, 7 May 2016 at <https://www.theguardian.com/sustainable-business/2016/may/07/climate-change-shell-exxon-philippines-fossil-fuel-companies-liability-extreme-weather> (accessed at 7 December 2017)

8 John Vidal, "World's largest carbon producers face landmark human rights case," *The Guardian*, 27 July 2016 at <https://www.theguardian.com/environment/2016/jul/27/worlds-largest-carbon-producers-face-landmark-human-rights-case> (accessed at 7 December 2017)

9 Anamaria Deduleasa, "Climate change abuses investigation to start next year," *Upstream Online*, 8 Dec 2016 at <http://www.upstreamonline.com/live/1198217/climate-change-abuses-investigation-to-start-next-year> (accessed at 7 December 2017)

10 Please see all footnotes under the Jurisdiction of the CHR and Discussion of the Petition and the discussion on the jurisdictional question in the Consolidated Reply – they are all citations in support of the preceding discussion.

11 Marie-Noëlle Bertrand, "Exxon, Chevron face Philippines climate change probe," *Climate Home News*, 8 December 2016 at <http://www.climatechangenews.com/2016/12/08/exxon-chevron-face-philippines-climate-change-probe> (accessed at 7 December 2017)

12 See the section Discussion and its footnotes on the Petition and Consolidated Reply: https://secured-static.greenpeace.org/seasia/ph/PageFiles/735291/Human_Rights_and_Climate_Change_Consolidated_Reply_2_10_17.pdf

13 Recommend that governments, including the Philippines and other countries where the investor-owned Carbon Majors are domiciled and/or operate, enhance, strengthen, or explore new ways to fulfill the international duty of cooperation to ensure the Carbon Majors take steps to address the human rights implications of climate change. The consolidated reply can be found here: https://secured-static.greenpeace.org/seasia/ph/PageFiles/735291/Human_Rights_and_Climate_Change_Consolidated_Reply_2_10_17.pdf