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Climate Rights

Hyo Yoon Kang | 23 November 2018

London Review of Books Blog: <https://www.lrb.co.uk/blog/2018/11/23/hyo-yoon-kang/climate-rights/>

Earlier this month, the [Republic of the Philippines' Commission on Human Rights](#) held public hearings in London for its [inquiry](#) into the responsibility of the 'carbon majors' (Chevron, Exxon Mobil, BP, Shell etc) for global warming. The petitioners are Filipino citizens and civil rights organisations who claim that the effects of the carbon dioxide and methane emissions for which the carbon majors are responsible violate their human rights.

Typhoon Haiyan hit the Philippines five years ago. It was one of the strongest tropical cyclones ever recorded, with maximum sustained winds of more than 145 mph as it made landfall over Eastern Samar in the early hours of 8 November 2013. It killed 6201 people, injured more than 27,000, and displaced nearly four million. The Philippines are hit by more than twenty tropical storms a year.

The [hearings](#) took place over two days in the [Moot Court Room](#) of the London School of Economics. (On the desk at the entrance there were print-outs detailing the arrest and detention of Senator Leila de Lima, a former chair of the Commission on Human Rights, who had investigated President Rodrigo Duterte in relation to the murder and forced disappearance of approximately 1800 people. As justice secretary she had also overseen the arrest and imprisonment of President Gloria Macapagal-Arroyo on election sabotage charges. De Lima has been detained on charges relating to illegal drug trading since February last year. Her appeal was denied by the Supreme Court, most of whom were appointed by presidents she had either arrested or investigated.)

The climate change inquiry is not legally binding - it can't impose damages and its findings are not enforceable – but the commission can make recommendations to help build a national and international jurisprudence of [climate change litigation](#). (The Pacific island nation of Vanuatu now says it is considering legal action against fossil fuel companies.) Most of the hearings have been held in Manila, but the presiding commissioner, Roberto Eugenio Cadiz, wanted to hold some of them in New York and London, 'to initiate a global dialogue rather than an adversarial confrontation', as Joana Setzer, who co-ordinated the hearings at the LSE, explained.

None of the corporations being investigated were taking part. Some of them had disputed the jurisdiction of the inquiry. Cadiz said at the beginning of the hearings that 'we respect the principle of territorial jurisdiction.' The Oxford ethicist, Henry Shue, who had submitted a brief and participated in the hearings, observed: 'I think it is disrespectful not to respond.' There were young lawyers from firms such as Baker McKenzie and Linklaters in the

audience, however, presumably taking notes on behalf of their corporate clients. Greenpeace lawyers and climate activists were squeezed in next to them.

Witnesses described not knowing if family members were alive or dead, waiting on rooftops in the rain, the lack of communication, the lack of food and drinking water, the dead bodies, the effects on children of displacement and trauma, the physical and mental toll of rebuilding a home and dealing with its destruction again and again. Myles Allen, one of the authors of the [most recent IPCC report](#), explained the research into the correlation between human influence and higher wind speeds. We followed deliberations about the moral imperative not to cause avoidable harm, and learned about the low-carbon options that have been available since the mid-1980s but not taken up. This year is expected to record the highest level of carbon emissions in history.

Richard Heede's 2014 report *Carbon Majors: Accounting for Carbon and Methane Emission 1854-2010* 'quantifies and traces for the first time the lion's share of cumulative global CO₂ and methane emissions since the industrial revolution began to the largest multinational and state-owned producers of crude oil, natural gas, coal, and cement'. The legal inquiry involves the transformation of scientific attribution principles into legal arguments, scaling down climate-change models into specific claims of human rights infringements. There have been cases dealing with risk in environmental and tort law before, so the transformation of probabilities into legal principles is not entirely new. But the scale and complexity of the matter at hand are unprecedented.