



Republika ng Pilipinas
Komisyon ng Karapatang Pantao ng Pilipinas
(Commission on Human Rights of the Philippines)

STATEMENT OF THE COMMISSION ON HUMAN RIGHTS
ON
THE PETITION FOR INVESTIGATION
ON THE RESPONSIBILITY OF CARBON MAJORS
FOR HUMAN RIGHTS VIOLATIONS
RESULTING FROM THE IMPACTS OF CLIMATE CHANGE

10 December 2015

Pursuant to the Petition filed before the Commission on Human Rights on 22 September 2015 by *Greenpeace Southeast Asia, the Philippine Rural Reconstruction Movement, et. al.*, calling for an Inquiry as to the alleged responsibility of Carbon Majors for Human Rights violations arising out of business practices contributing to climate change, the Commission hereby announces its decision to take due cognizance of the Petition.

Accordingly, a Public Inquiry as to the issues raised in the Petition will be conducted by the Commission, which shall be in two phases, commencing in the first quarter of 2016.

The first phase shall consist of the conduct of a multi-disciplinary consultative process between the CHR and relevant government agencies. It shall look into Climate Science, as well as examine the government's legal framework for measuring, monitoring, and reporting business activities, including those involving GHGs, specifically in relation to their impact on human rights. The government's accountability and regulatory mechanisms in relation to the foregoing shall also be reviewed. Part of the process shall include looking into the implementation of the Philippine Climate Change Law (RA 9729), the status of implementation of the Philippine Climate Change Action Plan, and other laws, rules and regulations relevant to the issue of Climate Change.

The second phase shall consist of receiving information or data on contributors to GHGs and their impact on climate change.

The respondent Carbon Majors shall be enjoined to participate in this Inquiry.

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Speech before Climate Change Petitioners and Media
by Comm. Roberto Eugenio T. Cadiz
CHR Focal Commissioner on Environment and Business
Paris / 4 December 2015

Good morning.

There is no doubt that Climate Change is upon us. There is no doubt, too, that it is causing - or at least, is a major contributor to - the rise in sea levels and storm intensities, with escalating disastrous effects.

Indeed, among those who are suffering the most from the effects of Climate Change is the Philippines. Nowhere has it been more dramatically demonstrated than in November of 2013, when our country was visited by Typhoon Haiyan, or Yolanda, as it is better known in the Philippines.

It is no wonder, therefore, that the Philippines is at the forefront in seeking to address this issue, not only as an individual country, but also as (outgoing) Chair of the Climate Vulnerable Forum, by helping to forge a legally binding agreement to reduce greenhouse gas emissions to stem the rise in global temperature.

It seems, however, that the forging of treaties and the pursuit of other international conventions to address the issue of climate change by limiting carbon emissions are moving very slowly, if at all, due to resistance by governments. Thus, the impetus to explore other avenues, among of which is litigation.

In a recent work by Meredith Wilensky, entitled "Climate Change in the Courts: An Assessment of Non-U.S. Climate Change Litigation," dated February 2015, she noted that "***Climate change has been treated in the courts much like any other environmental issue and has not resulted in the development of distinct climate change jurisprudence.***"

This, we imagine, is the reason why climate change advocates have been exploring creative ways for addressing this issue, which brings us to the case filed before the CHRP on 22 September 2015.

On 22 September 2015, a Petition alleging that privately-owned Carbon Majors are largely responsible for Climate Change has been filed in the Philippines. It was filed **not before a regular court, but before the Commission on Human Rights.**

For the first time, indeed, a Petition, casting the issue of Climate Change within the framework of Human Rights, has been filed with a National Human Rights Institution.

This Petition is novel, not only in its attempt to haul carbon majors in one "global petition," but also in that it directs international attention to the practice of businesses using the lens of Human Rights.

The Petition raises jurisdictional and transboundary issues. It asks the Philippine NHRI to consider a liability issue against companies that are not domiciled in the Philippines on the basis of transboundary effects of their business operations.

To be sure, the CHRP is not a judicial organ that has jurisdiction to award damages to any party whose Human Rights have been violated.

The CHRP does have the mandate, however, to investigate and monitor matters concerning the economic, social, and cultural rights of our citizens - moreso, in regard to those who belong to the marginalized and vulnerable sectors.

The Philippines is a signatory to International Human Rights instruments, which mandate it to protect and uphold the Human Rights of its citizens.

The CHRP will not shirk from its responsibility of exercising its mandate in confronting HR issues in relation to Climate Change.

Thus:

We will be conducting a Public Inquiry, as triggered by this Petition.

The scope, elements, and method of inquiry will be announced in the Philippines on International Human Rights day, upon approval of the Commission en banc after we return to Manila.

The Public Inquiry will commence in the first quarter of 2016, after the determination and formal appointment of members who will be comprising the inquiry team and the completion of other administrative requirements necessary for the Inquiry.

The Public Inquiry will necessarily involve a process of consultation, which shall look into Climate science, as well as contributors to GHGs. The Carbon Majors shall, of course, be enjoined to participate in this process.

We hope to be able to help establish standards for corporate reporting on activities involving GHG emissions, as well as clear mechanisms and processes for redressing Human Rights victims arising from climate change.

We take due notice of the fact that the Philippine government, in this historic UNFCCC COP21 event, has been sending a strong message on making human rights a "bedrock principle" in a binding agreement or treaty that the COP is attempting to forge. Thus, we foresee a very healthy, synergetic relationship between the CHRP and the Philippine government in tackling the issue of Climate Change on multiple levels.

Part of the collaborative effort between the CHRP and the Philippine government in addressing the issue of Climate Change will be to look into the status of the implementation of the Philippine Climate Change Law (RA 9729), the Philippine Climate Change Action Plan, and the other Rules and Regulations on Climate Change.

We will seek to forge a multi-disciplinary inquiry that will look into our government's system of monitoring, which we hope would lead to the development of more effective accountability and regulatory mechanisms.

I would like to end by reiterating that, yes, the CHRP has jurisdiction to conduct an Inquiry, based on the Petition, the latter having been presented within a Human Rights framework.

That having been said, a cautionary note: The Petition is also effectively praying for a declaration from the CHRP that the respondent carbon majors are primarily responsible for climate change and, consequently, liable to Filipino citizens for damages arising out of it. This finding necessarily rests upon the resolution of a scientific debate, which brings us to the issue of *suitability*. If there are other agencies of government who might be in a better position to resolve this, should not these issues be brought for resolution before them, instead of the CHR? We raise this, not to discourage the Petitioners in pursuing its case, but to give it a heads-up on what it might be facing in prosecuting or pursuing it in its present form.

Congratulations to the Petitioners and we look forward to seeing more of you in Manila, as you attempt to forge this new path of addressing the issue of Climate Change.