



CLIMATE REPARATIONS: A CLIMATE JUSTICE IMPERATIVE

As COP28 nears, the call for climate justice and the fulfillment of climate financing pledges becomes increasingly vital. This year's United Nations Climate Change Conference, which focuses on emissions reduction, will also highlight the critical issue of loss and damage, thereby expanding the role of governments, civil society, and the private sector in these discussions.

The emphasis on climate justice is essential, especially since those contributing least to the climate crisis are the most affected by its consequences. This imbalance exacerbates social and economic inequalities and underscores the need for swift, concrete, and substantial climate action. The [IPCC AR6](#) reinforces this, emphasizing the need for strong political commitments to implement scientifically-based solutions that respond to the actual experiences of communities impacted by climate change. It is crucial for policymakers to not only understand but also integrate the knowledge and aspirations of these communities into their decision-making processes.

Responding to this need, Greenpeace Philippines, the House Committee on Climate Change chaired by Rep. Edgar M. Chatto of the First District of Bohol, Climate Action and Human Rights Institute (CAHRI), and the Legal Rights and Natural Resources Center (LRC) organized panel discussions on 23 November 2023 to provide a platform for impacted communities to voice their experiences directly to policymakers and the private sector. These discussions are instrumental in shaping effective, informed, and relevant policies and programs, aligning them more closely with the needs and realities of those most affected by climate change.

DUTY OF STATES TO PROTECT HUMAN RIGHTS

The Commission on Human Rights of the Philippines (CHRP) published the National Inquiry on Climate Change (NICC) Report in 2022, concluding the first-ever such inquiry held before a National Human Rights Institution (NHRI). The report's findings can be summarized as follows: climate change is real, climate change is anthropogenic, climate change is a human rights concern (affecting rights to life, food, health, water, housing, healthy environment, work, education, and culture); and it affects the most vulnerable: women, youth, older persons, indigenous peoples, and people

experiencing poverty. The NICC report makes this clear: People who contribute the least to climate change are disproportionately affected by its impacts.

This is echoed in Bataan province by the experiences of Ms. Jochelle Magracia, where she and the Young Bataños for Environmental Advocacy Network, have been fighting for climate justice. Their community suffers from the environmental and health consequences of nearby coal-fired power plants and a nuclear power plant. While these plants yield substantial profits for corporations, they inflict severe health issues on the local population. Air pollution and coal ash contamination have disrupted livelihoods, particularly for fisherfolk, and heightened fears of potential disasters. Despite persistent calls for accountability and social change from Bataan's community and organizations, the corporations involved remain unresponsive.

This scenario of the youth in Bataan parallels that of KlimaSeniorinnen or Senior Women for Climate Protection in Switzerland. They emphasize the immediate and disproportionate impact of the climate crisis on older persons. Dr. Elisabeth Stern of KlimaSeniorinnen points out that older individuals, especially women, are increasingly vulnerable during intense and frequent heat waves, underscoring the urgent need for inclusive climate action that considers the vulnerabilities of diverse population groups.

Former CHRP Commissioner Roberto Cadiz, reflecting on lessons learned from the NICC, pointed out that the failure of governments to engage in meaningful action against climate change may constitute a human rights violation. The debates on whether the impacts of climate change are human rights violations do not diminish the clear obligation of states under international law, including international human rights law, to protect their citizens from the negative impacts of climate change.

He emphasized the complexity of climate change, cautioning against oversimplifying the issue by blaming convenient scapegoats, even while acknowledging the detrimental role of corporate greed. He further underscored the imperative for innovative and nuanced approaches in tackling this multifaceted issue.

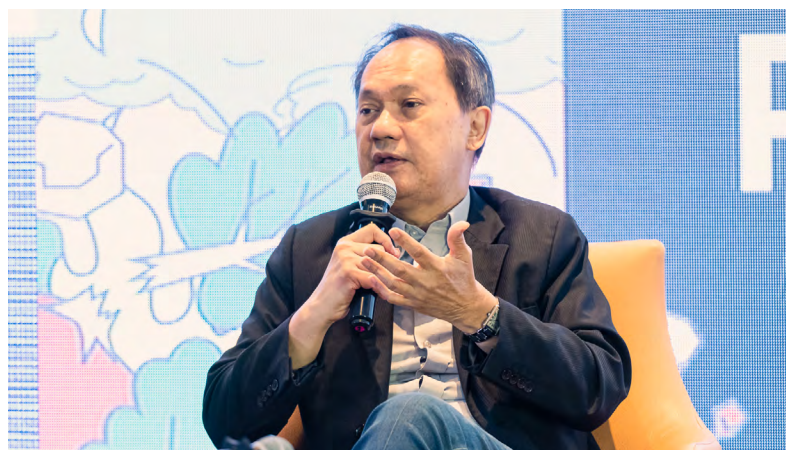
In Europe, for example, organizations are demanding climate justice from states. Inspired by the success of the Urgenda case in the Netherlands, KlimaSeniorinnen, with support from Greenpeace Switzerland, took legal action in 2016 against the Swiss government regarding insufficient climate policies. In 2021, the lawsuit gained priority at the Grand Chamber of the European Court of Human Rights (ECHR) in Strasbourg. The subsequent public hearing in 2023 before the ECHR garnered tremendous media attention, bringing the association's cause to a wider audience. KlimaSeniorinnen demands climate justice by calling on federal authorities to correct the course of Swiss climate policy, asserting that current targets and measures fall short of what is necessary to limit global warming to a safe level.

Several representatives from the Philippine government also spoke on their respective institution's efforts on the national and local scale. A common message among the discussants is the need to work together: all sectors leveraging individual strengths to face this existential crisis—promoting solidarity and oneness. There is no choice but to join this conversation and participate. As Greenpeace Southeast Asia Executive Director Mr. Naderev Saño noted, the group is in consensus that achieving climate justice and averting the climate crisis is a challenge. While the window of opportunity to address this is small, we still have the power to make it happen. We have the power to avert it.



NHRIs and HUMAN RIGHTS

Former CHRP Commissioner Cadiz pointed out that a particularly potent and effective method is approaching these issues and challenges with a human rights perspective and a human rights-based approach. With their usually broad mandates, unconstrained by territorial jurisdiction, and the advantage of having many “levers” that can address human rights issues, NHRIs become ideal for handling cases where courts are otherwise limited. NHRIs can only be limited by their creativity and commitment.



Dr. Atnike Nova Sigiuro, Chair of Indonesia's NHRI, Komnas HAM, discussed how their institution responds to the rising number of complaints related to climate and the environment. Through case monitoring and investigation, mediation between different parties, and engagement with corporations, Komnas HAM demonstrates the ability of NHRIs to address environmental issues through a gender and human rights perspective. Dr. Sigiuro stressed that conversations on climate change should extend beyond the immediate impacts of environmental damage to consider its long-term impacts on communities and the potential to exacerbate gender inequalities. This perspective was reinforced by Ms. Anne Pakoa of Vanuatu Young Women for Change, who advocated for empowering women in humanitarian leadership while safeguarding their rights and dignity.



REPARATIONS AND LEGISLATION

CAHRI Trustee Martin Esguerra distilled the essence of law as “*a mere approximation of morality. It is society’s attempt to discern what is right or wrong. Lawyers should learn this basic truth, avoid being enamored with positive law, and know its limitations.*”

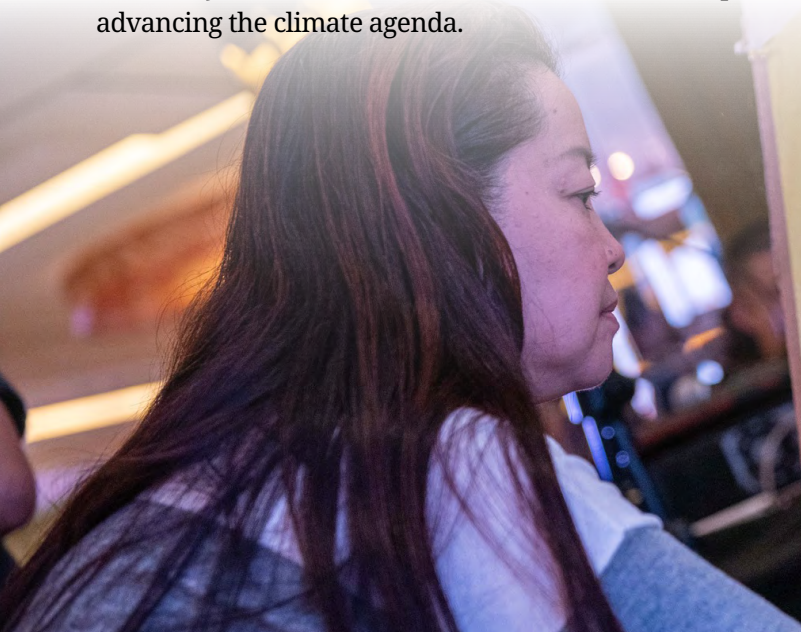
The NICC Report, recognizing both the moral urgency of addressing the human rights impacts of climate change and the existing gaps in positive law, pushes for the enactment of legislation that imposes liabilities on corporations for human rights abuses. Domestic laws must explicitly cover human rights abuses committed by non-state actors, enforce penalties for such violations, and ensure legally enforceable reparations for victims. This includes addressing transboundary harms, irrespective of the offending corporation’s juridical personality or local presence. LRC Executive Director Efenita Taqueban, in her discussion on indigenous peoples’ rights, emphasized the need for more specific legislation with detailed provisions on accountability, responsibility, and reparation.

During the event, Congressman Edgar Chatto, Chair of the House Committee on Climate Change, announced the filing of House Bill 9609, also known as the Climate Accountability (CLIMA) Bill, in Congress on 22 November 2023. This bill, likely a global first, sets a framework for addressing Loss and Damage, as discussed by LRC Lawyer Ryan Roset. Parallel to this proposed national legislation, local efforts are also underway. In the municipality of Salcedo in the province of Eastern Samar, Mayor Rochelle Mergal passed Municipal Resolution No. 2023-79. This groundbreaking resolution holds entities accountable for contributing to climate change and empowers the mayor to implement climate action recommendations. The mayor emphasized this significant step as a testament to local commitment to climate issues. She called for collective action, urging other mayors and local stakeholders to take their steps in advancing the climate agenda.



Carbon majors are culpable for environmental and climate impacts; having deliberately obfuscated climate science and obstructed global efforts towards decarbonization and the transition to clean, renewable energy. Given their substantial profits from the global fossil fuel regime, they bear a responsibility to compensate victims of climate change.

Eline Zeilmaker-Smit, Senior Legal Advisor in the climate case *Milieudefensie v Royal Dutch Shell*, noted that seeking reparations through legal mechanisms is not only a matter of justice but also a means to influence public opinion, helping consumers realize the responsibility of businesses to act ethically and be accountable for their actions.





COP28

Ms. Kaisa Kosonen, COP28 Delegation Lead for Greenpeace International, describes the upcoming COP as a “moment of truth,” the most crucial since the Paris Agreement. This Conference is even more significant for its focus on the first-ever Global Stocktake, aimed at evaluating the progress and shortcomings in climate action to date. Notably, it is hosted by a wealthy petrol State with an oil company CEO at its forefront, presenting a stark choice for the summit: to either serve as a decisive policymaking platform (Decision COP), or merely as a showcase event (Expo COP).

Previous COPs have achieved some measure of progress, including a projected decrease in global warming by 1 degree Celsius, net-zero pledges covering approximately 90% of global GDP, and groundbreaking advancements in renewable technologies. Despite these gains, challenges persist. Fossil fuel demand is projected to peak before 2030, and current efforts fall short of the Paris Agreement’s goal to limit warming to 1.5 degrees Celsius. The urgent need for major nations to consistently commit to halving emissions is essential, as is the role of COP28 in steering global climate action.

The outcomes of COP28 will be crucial in guiding global collective action and shaping solutions to the climate crisis. It presents an opportunity for policymakers, governments, and various stakeholders to adopt bold and transformative changes to champion the needs of those disproportionately affected by climate impacts. COP28 should emphasize the importance of strengthening justice mechanisms, especially in addressing reparations and the protection of fundamental, inviolable, inalienable, non-derogable human rights for all.

CONCLUSION

The discussions made clear that notable strides have already been made to address the impacts of climate change and their implications on human rights. Yet, they also remind us that our journey is far from over.

We are urged to not only sustain our efforts, but to intensify them, fostering a spirit of collaboration across international, domestic, and local levels. This collective action will propel us toward achieving the goals and ambitions that we ourselves have set in this race to avert the twin crises of climate change and biodiversity loss, and especially its impacts on human rights.

Let us #MakePollutersPay!



PRESENTATIONS AND OUTPUTS

OPENING MESSAGES	LINK TO PRESENTATION
Hon. Edgar M. Chatto Chair, House Committee on Climate Change Representative, 1st District of Bohol	Keynote Speech
Usec. Bernardino E. Sayo Undersecretary and Presidential Legislative Assistant, Presidential Legislative Liaison Office Malacañang	Messages of support
PANEL DISCUSSION 1: HOW COMMUNITIES ARE STANDING UP FOR CLIMATE JUSTICE	
Ms. Anne Pakoa Actionaid Vanuatu/Vanuatu Young Women for Change	Women as the powerhouse for climate action
Ms. Jochelle Magracia Young Bean, Philippines	Leading the youth in seeking accountability from polluters
Dr. Elisabeth Stern KlimaSeniorinnen-Switzerland	Demanding Climate Justice from States Short Video
PANEL DISCUSSION 2: ADVANCING ACCESS TO REDRESS THROUGH HUMAN RIGHTS INSTITUTIONS	
Atty. Roberto Cadiz Former Focal Commissioner on the NICC Investigation, Commission on Human Rights	Lessons from the National Inquiry on Climate Change Investigations
Dr. Atnike Nova Sigiro Chairperson, National Commission on Human Rights- Indonesia	Protecting women's rights amid the climate crisis
Atty. Mai Taqueban Executive Director, Legal Rights and Natural Resources Center	The Global Climate Crisis and the Indigenous People's Rights
PANEL DISCUSSION 3: CLIMATE ACCOUNTABILITY: LEGAL AND SCIENTIFIC FRAMEWORK	
Atty. Eline Zeilmaker Senior Legal Advisor Climate Case Shell	Milieudefensie vs Royal Dutch Shell: A Case in Point
Atty. Ryan Roset Legal Rights and Natural Resources Center/Friends of the Earth	CLIMA Bill: A proposed legislation
Ms. Kaisa Kosonen COP28 Delegation Lead Greenpeace International	Climate Change Accountability and COP28
RECOMMENDATIONS/POSSIBLE POLICY ACTIONS	
Workshops	Output 1: Online participants Output 2: Onsite participants
Municipal Resolution 2023-49 Municipality of Salcedo, Eastern Samar	Resolution seeking accountability for conduct directly contributing to climate change and its subsequent impacts on the people of the Municipality of Salcedo
House Bill 9609	The Climate Accountability Act (CLIMA Act)