



REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS

PRESS RELEASE

13 December 2018

**CHR concluded landmark inquiry on the effects of climate change to human rights;
expects to set the precedent in seeking climate justice**

The Commission on Human Rights of the Philippines' panel conducting an inquiry to determine the impact of climate change on the human rights of the Filipino people officially concluded its public hearing yesterday, December 12. The first pre-hearing conference was conducted by the Panel on December 11, 2017, while the public hearings began in March, 2018.

At the closure of the public hearings, Panel Chairman Commissioner Roberto Cadiz said that climate change was a human rights issue, a global issue, and an existential issue.

Commissioner Cadiz described the process of their inquiry as *dialogical*, rather than adversarial. He likewise revealed that they embarked on a *global* dialogue on climate change, recognizing the trans-boundary character of the issue. The panel received amici briefs and other submissions from advocates, legal and scientific experts, and the academe from around the globe on the various issues concerning the case.

Previous to the filing of the climate change petition before the Philippine Commission, Commissioner Cadiz explained that cases have been filed by various parties before regular courts in different jurisdictions, attempting to attribute climate change largely to the activities of oil producers and the failure of governments to regulate them. These efforts have so far failed to establish judicial consensus on the matter. Thus, attempts have been made to explore non-judicial mechanisms for addressing the issue, such as by framing climate change as a human rights case before a human rights institution.

In 2005, the Inuit people first attempted to establish a nexus between climate change and human rights in a case before the Inter-American Commission on Human Rights, a mechanism under the Organization of American States. The Inter-American Commission, however, refused to consider the case, holding that “*(the) information provided by the (Inuits) does not enable (the commission) to determine whether the alleged facts would tend to characterize a violation of rights protected by the American Declaration.*”

CHR: Dignity of all

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The petition filed before the Commission on Human Rights of the Philippines in 2015 was the second attempt to cast climate change as a human rights issue. The theory of petitioners' case is simple: The human rights of the Filipino people are being adversely impacted by climate change and the top oil producers of the world have contributed, and knowingly continue to contribute, to this phenomenon.

The choice of the Philippines as a venue for the petition was made significant by the fact that it was the chair of the Climate Vulnerable Forum at the time of filing. The Philippines is visited by twenty to twenty-two typhoons every year. In 2013, it was the victim of the strongest typhoon to have made landfall in recorded history.

Commissioner Cadiz explained that, when the CHRP accepted the petition, there was no legal precedent to help it navigate through the case. It lacked the resources to handle a case of that magnitude, as well. Indeed, following the refusal of the Inter-American Commission on Human Rights to hear the case of the inuits in 2005, nobody would have questioned the Philippine Commission, had it dismissed the petition.

The oil companies have questioned the jurisdiction of the Commission to hear the case. The Commission clarified, however, that, although it did not have *enforcement jurisdiction* or compulsory processes against the parties, it had the duty to inquire into the matter brought before it. Commissioner Cadiz explained that they were well aware of the Commission's jurisdictional limitations and could not *compel* the respondents to appear before it. Neither did it have the power to impose any sort of damage against any of the parties.

The inquiry operated on the principle of persuasion. The Commission had, thus, issued *invitations*, in lieu of *summons*, to the parties to participate in what had been described as a "dialogue" on climate change. Commissioner Cadiz had earlier emphasized that, with or without the participation of the respondents, their Commission was determined to proceed, as it had proceeded, with its inquiry, in obeisance of its constitutional mandate to investigate allegations of violations of human rights of the Filipino people. He further clarified that their decision to hear the petition did not mean that they had already accepted the position of the petitioners. The petitioners still needed to prove their allegations in a proceeding that was transparent and respectful of the principles of due process.

The oil companies have earlier asked the Commission to dismiss the petition, arguing that the Philippine Constitution only allowed the Commission to investigate cases involving civil and political rights.

Commissioner Cadiz pointed out that the petition did allege violations of civil and political rights. More importantly, he explained that all human rights are inter-related, inter-dependent, and indivisible. Thus, one cannot consider civil and political rights separately from economic, social, and cultural rights. He said that, unlike courts which are largely governed by precedents, the challenge to National Human Rights Institutions is to test boundaries and create new paths; to be bold and creative, instead of timid and docile; to be more idealistic, and less pragmatic; to promote soft laws into becoming hard laws; to be able to see beyond legal technicalities and establish guiding principles that can later become binding treaties. in sum, to set the bar of human rights protection to higher standards.

The Philippine Commission on Human Rights has taken the innovation of infusing global dimension into its inquiry by inviting stakeholders from around the globe to participate in it.

International experts have testified in Manila before the Commission's panel. The Inquiry Panel also went to New York and London, in collaboration with the New York Bar Association and the London School of Economics, respectively, to receive the testimonies of witnesses and consider the opinions of more experts and academics on the issue. He thanked all the others who assisted them, citing the Asia Pacific Forum of Human Rights Institutions, the Global Alliance of National Human Rights Institutions, the Office of the High Commissioner on Human Rights, the European Union, the Spanish Aid Agency, the International Bar Association, and other governments.

Commissioner Cadiz expressed hope that their inquiry will be able to help establish clear mechanisms and processes for hearing human rights cases, especially those imbued with extra-territorial obligations. He also hoped that their inquiry would help to clarify standards for corporate reporting of carbon majors on their activities relating to greenhouse gas emissions, as well as help identify basic rights and duties relative to the impacts of climate change.

He further explained that their inquiry focused on the substantive aspects of the climate change dialogue, and avoided the distraction of technical rules concerning territorial and enforcement jurisdiction. Most important to the inquiry, according to him, was the fairness of their process. He said that their findings and recommendations will be released in June next year, which he assured would be supported by credible scientific evidence. ■