

Invitation to our Side Event at COP 23

Thursday, 16 November 2017, 13.15-14.45 h, Meeting Room 4. Bonn Zone

Rights and Responsibility: Climate Litigation in a Post-Paris world

Summary:

A rising tide of new and innovative legal initiatives and court cases around the world are helping to hold big emitters and polluters accountable for climate change impacts, including loss and damage. This session will explore the potential of climate litigation to raise ambition and deliver climate justice in a Post-Paris. It will do so by drawing on groundbreaking research on the legal liability of Big Oil. Speakers will also present some of the most exciting and innovative court cases and report on recent developments from hearings in these cases scheduled just days before the event. The side event will also explore the significance of climate change loss and damage for Fiji and other Pacific island states and provide insights into potential legal actions.

Background:

At this side event, the Center for International Environmental Law (CIEL) will launch a major new synthesis report: **Smoke and Fumes: The Legal and Evidentiary Basis for Holding Big Oil Accountable for the Climate Crisis**. Drawing from the extensive and ongoing recent investigations into the oil industry's history of climate research and climate denial, including the hundreds of documents compiled in CIEL's own research, *Smoke and Fumes* presents the first comprehensive summary of what the oil industry knew about climate change, when they knew it, and how they misled investors and the public about climate science. Significantly, *Smoke and Fumes* analyzes the available evidence in the context of core principles of legal responsibility that underlie tort and human rights regimes around the world, and maps that evidence to the rapidly developing science of climate attribution, to provide a foundation - and a roadmap - for future investigations into corporate climate accountability.

Important research such as this is paving the way for new court cases and legal investigations. In our side event we will hear about two of such cases that are facing important developments during COP 23:

For the first time, a company responsible for climate change faces legal charges in Europe. The Peruvian farmer and mountain guide **Saúl Luciano Lliuya has filed a lawsuit against RWE**. Due to climate-change induced glacial retreat, a devastating flood disaster threatens Saúl Luciano Lliuya's house and large parts of the Andean city of Huaraz. The energy company's immense emissions amount to about 0.5% of human induced emissions since the beginning of industrialisation. Saúl Luciano Lliuya demands that RWE pays its fair share (0.5%) of the costs for the necessary protection measures at the glacier lake above his city. In the first instance the lawsuit was dismissed, but Saúl Luciano Lliuya's fight for climate justice continues and he filed an appeal before the Higher Regional Court Hamm. The appeal is now scheduled as an oral hearing for 13 November 2017. Brand-new insights from the oral hearing will be shared during the side-event. Germanwatch is supporting Saúl Luciano Lliuya's fight for climate justice and wants to hold polluters like RWE accountable and incite them to shift to less damaging business models. A positive ruling should serve as a leverage for political solutions.

With the backing of a wide coalition, two environmental groups, Nature and Youth and Greenpeace Nordic, have filed an historic legal case against the Norwegian government for granting licenses to allow oil drilling in new areas of the Norwegian Arctic for the first time in 20 years. The plaintiffs argue that Norway thereby violates the Paris Climate Agreement and the right to a healthy and safe environment for future generations as stated in the Norwegian Constitution. The case „**The People vs. Arctic Oil**“ will be presented in the Oslo District Court on 14 November 2017. It will be the first case that challenges drilling for new oil and gas based on the Paris agreement, and it will be the first time the rights contained in Norwegian Constitutional Article §112 are invoked in Court, which could set an international precedent for future climate cases around the world.

For many **Pacific Island communities**, climate change is a reality they are living through daily. It poses risks to sovereignty, security and their existence as a people. Apart from an increase in temperatures, they now experience increasingly frequent and severe tropical cyclones, rising sea levels and ocean acidification, the imminent submerging and complete loss of their Island homes, indigenous traditional fishing grounds (*‘qoliqoli’*), indigenous traditional plantations (*‘ikanakana’*), contamination of their ground water sources, health impacts, forced displacement and relocation of homes and villages. **Climate change is now recognized as not only an environmental issue but also a human rights issue**, something that is well articulated in the *Petition to the Commission on Human Rights of the Philippines* (CHR Petition). The investigation of this Commission against ExxonMobil and the other carbon majors have paved the way for possible similar action to be brought in other jurisdictions, including in the Pacific. These legal actions will be one way of holding those responsible who are the largest corporate contributors to greenhouse gas emissions, who had prior knowledge of this information and decided to deceive the public and prevent climate action.

Speakers:

Lili Fuhr, Heinrich Böll Foundation, Germany

Klaus Milke, Stiftung Zukunftsfähigkeit / Germanwatch, Germany

Carroll Muffett, Center for International Environmental Law, USA

Naomi Ages, Greenpeace, USA

Makereta Waqavonovono, independent lawyer, Fiji

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