

Student Led Session: Power, Inequality & Justice

Case 1



1.0 Legal responsibility for climate change

1.1 Background

Climate change has been an ever increasing worldwide issue, raising concerns among private citizens and environmental organisations for the future of our planet. Despite continued government collaborations through conferences and summits, many feel not enough government action has been taken.

In response, people around the world have started taking legal action. In the Netherlands 900 citizens have taken the power in their own hands by suing their government for its potentially devastating inaction on climate change.

The court argued that it is the duty of the judiciary to provide legal protection to its citizens against acts that pose a realistic and grave threat, that there is a sufficient causal link between Dutch emissions, climate change and effects for the Dutch people, and that the state accepted its responsibility in taking action on climate change by signing the UN climate treaty.

The court therefore ruled the government to cut its greenhouse gas emissions by at least 25% by 2020. This ruling was the first time human rights was used as a legal tool to protect people against climate change, and similar lawsuits are now emerging in a number of countries.

1.2 Problem Development

To prove the causal link between emissions, climate change, environmental effects and human rights will be problematic and the consequences of climate change might occur in a different place and much later. Is it reasonable to hold someone responsible for unspecific and unpredictable effects?

Governments have commitments to its citizens ensuring human rights. Could/should it also be held responsible for failing to prevent a future violation of such rights (the right to life, to property etc.) caused by climate change?

If, as the Dutch court ruled, governments are legally responsible to follow the UN climate treaty, to whom/what could it be held accountable?
If the Dutch government will fail to cut the emissions, what will happen?

When it comes to separation of powers, is it problematic that the judiciary binds the political power to act on climate change.

Only living people hold human rights, but also future generations will be affected by climate change. How could their interests be represented in political and judicial institutions? Should the understanding of the term Human Rights be extended to include future generations aiming to reach intergenerational?

Companies/people can be held accountable for emitting hazardous material in nature, if the emission, the damage and a causal link is proven. Should there be civil liability for emitting greenhouse gases, even though CO₂ emissions is not prohibited?

1.3 Discussion Questions

- Is a legal approach the 'right' or most suitable/effective way of enacting change and demand accountability?
- Who has access to this means of change-making? Can this be applied to other political systems?
- Is there risk of a conflict of interest here, is the judicial, executive and legislative powers distinct enough? Can it be effective?
- Would/should it be possible to sue other people/companies for environment damages?
- Could potential future technological solutions be used to avoid current action and responsibility?
- Can, and should, those in developing countries, who will live with the consequences more harshly, hold those responsible to blame?
- How should the government be held responsible if it fails to follow the court's ruling to cut the emissions?

1.4 References

- News article about the case
<https://www.telegraph.co.uk/news/worldnews/europe/netherlands/11695680/Netherlands-ordered-to-cut-emissions-by-courts-after-900-civilians-sue-government.html>
- General case about justice and people suing the government
<https://www.dailykos.com/stories/2015/7/6/1399668/-Judges-Can-Save-Us-From-Climate-Change-And-They-ve-Already-Started>
- Another view on the case → companies responsible?
<https://www.ciel.org/news/smoke-and-fumes-2/>

2.0 Case 2



2.0 Prison, punishments & human rights

2.1 Background

In the Philippines, the prison structure is a continuing problem, especially in the current president's war on drugs. Overcrowded prisons with questionable human rights are the standard in Manila. But on the island Palawan, you can find a prison without walls. The open prison structure at Iwahig Prison and Penal farm creates a unique approach to reforming prisoners by having no walls and a minimum amount of guards. In this way, the minimum-security prisoners are able to farm, fish, and do office-related work, often with a wage to be kept in a trust for when the prisoner is released. Tourists are also able to visit the prison, talk to the prisoners, buy handmade items, and see the prisoners dance. The prison aims to have information and restorative justice, where the power is left in the hands of the prisoners and helps them rehabilitate back into society.

2.2 Problem development

With Duterte's (president of the Philippines) politics, the rules have become tougher in Iwahig, and shortages of food have started to create problems at the penal farm. It is still a prison and some prisoners have started to question the rules around it, making (attempted) escapes more prevalent. Furthermore, the tourism could be considered damaging to the prison, regarding the dancing (prisoners as circus animals?)

How should justice be served in these prisons? Is there some sort of inequality within the prison (maximum/minimum security)? Who says what is allowed when it seems so free? What can we learn about prison management in developing countries - would this be an example?

2.3 Discussion questions

- What is the connection between the Iwahig prison and tourism?
Is it good idea to give access to tourists visit prison to share that idea and how it will be helpful for developing better prison systems all over the world?
- Do you think technologies can help the development of this kind of governance? (through promoting tourism, showing videos etc.)

- Is it essential to give these kinds of conditions of life to inmates? Why?
How can the justice system be improved in developing countries?
- How are the conditions relevant for prisoners to integrate them in society after jail release?
What do you think about letting this amount of freedom to inmates?
- How does this kind of governance affect prison structure, developments and human rights?

2.4 References

- News article about Iwahig Prison
<https://www.aljazeera.com/indepth/features/2015/10/life-philippines-prison-walls-151007074700822.html>
- Research article about prison management in the Philippines. Not necessary to read
Data/Method/Findings
<http://journals.sagepub.com/doi/pdf/10.1177/0032885516679366>
- News article about the state of prisons in the Philippines
<http://www.abc.net.au/news/2017-09-20/philippine-prisons-overflowing-as-war-on-drugs-intensifies/8959448>
- Video about Iwahig Prison
https://www.youtube.com/watch?v=ermBp_rAL_g

Extra, non-mandatory reading:

http://www.ombudsman.gov.ph/docs/statistics/2007_bucor.pdf