

Are BP'S Senior Executives Climate Criminals?

Side Event Podcast Transcript:

The From The Ground Up Music *Upbeat running beats that fade in, and then start to fade after 10 seconds*

00:15 Josh:

Hi, welcome to an extra special episode of From The Ground Up.

I am Josh, He/him pronouns and on Wednesday 7th December UKYCC, in partnership with Students for Climate Solution New Zealand, submitted a request to the International Criminal Court Prosecutor.

In the submission, we request the ICC Prosecutor to investigate the senior executives of BP for climate change as a Crime Against Humanity.

We are also asking the prosecutor to consider whether BP's senior executives should pay reparations to the victims of anthropogenic climate change.

On that Wednesday, we hosted a side event at the ICC's annual conference known as the Assembly of State Parties, the ASP, in which we announced the submission, explained its contents, our motivations for doing so, and its relevance to the wider youth and climate reparations movements.

This special podcast episode is a recording of the side event speeches. It includes the side event opening, five speakers and then a short closing. Just a warning, the first of the five speakers covers the legal technicalities. So, apologies to the legal nerds, but if you want to skip to the juicy bit I recommend skip ahead when at 5m 45s to 16m 45s.

Thank you for listening and we hope you support us by visiting our social media, and website, signing our petition, joining our letter-writing campaign or just sharing our message. If you have any questions, contact us as Climatecrime@outlook.com.

Thank you and enjoy.

Time: 1:58

*ClimateCrime music fades in: Serious atmospheric rolling beats with a deep bass.

Time: 2:16

Side event recording begins

Rilke: Kia ora koutou, hello everyone. Thank you for joining us today for our side-event. Firstly, we would just like to thank the Republic of Vanuatu for sponsoring this event.

My name is Rilke Comer I am from Students for Climate Solutions Aotearoa New Zealand.

Josh: My name is Josh Bloodworth from the UK Youth Climate Coalition.

Moments ago, we have made a Submission to the Office of the Prosecutor of the ICC under Article 15 of the Rome Statute.

In the submission, we are requesting the International Criminal Court's Prosecutor to investigate the senior executives of BP for climate change as a Crime Against Humanity.

We are also asking the prosecutor to consider whether BP's senior executives should pay reparations to the victims of anthropogenic climate change.

Rilke: With great honour I introduce the 5 speakers who will be presenting on this panel, the first three from Students from Climate Solution and the latter two from the UK Youth Climate Coalition.

- 1) Phoebe Nikolaou, a barrister & solicitor of New Zealand, who was invited to join by the New Zealand team, shall explain the legal framework within our submission and climate change as a crime against humanity.

- 2) myself, who will explain the factual assessment of our submission, which includes; BP's senior executive's knowledge of the role of fossil fuels in causing climate change, the harm that this would inflict on civilians, and their decisions to pursue a common purpose of maximising petroleum profits at the expense of this.

- 3) and, Lauren Craig, who will speak on the value of our submission as a template, why we have taken this case to the ICC, why we have selected senior executives of BP, and the importance of considering future harm caused by climate change.

- 4) **George Carew-Jones** will speak to where this submission sits within the wider movement for climate justice

5) Joshua Bloodworth, will set the submission in the context of the wider demands for reparations.

Josh:

Before we pass on to our first speaker, we wanted to acknowledge three things.

- 1) Firstly, I want to take the time to point out that there have been dozens of people involved in the creation of this submission, and while we can't name all of them for individual safety reasons, we would like to acknowledge their invaluable work.

- 2) Secondly, I would like to apologise that we do not have translators or a live-stream. We deeply regret these accessibility barriers to our side event, however, we could not afford the high fees. We are both volunteer led organisations, and we hope the affordability of accessibility for civil society side events is improved in the future. I would like to acknowledge and recognise the statements made by the Prosecutor, Mr Khan, in our meeting with him this morning advocating the need for greater accessibility and affordability.

- 3) Thirdly, today we are talking about climate change as a crime against humanity. The facts on this issue, the impacts of climate change, predominantly impact those who are from marginalised communities. Most of these people are part of the non-white global majority. We are aware that on this panel we do not accurately represent those communities, however, given the privilege, in

particular white privilege for some of our wider organisational members, we believe it is incumbent on us to take on responsibility, and the associated risks, to hold the powerful individuals, that we addressed in our submission, to account.

I want to now welcome our first speaker, Phoebe.

Time: 5:50

Phoebe:

Kia ora koutou, hello everyone. Thank you Josh and Lauren for the introduction and thank you all for joining us today.

The panel will present a brief summary of the group's Article 15 submission on climate change as a crime against humanity and the implications of that in relation to the actions of the senior executives of BP. The submission relies on publicly available information as to the actions of those executives which demonstrates that the common purpose of maximising petroleum profits despite the infliction of suffering as a result, clearly achieves the threshold of climate change being a crime against humanity as a widespread and systematic attack against humanity.

Indeed I have been invited by the group to speak to the legal aspects of their Article 15 submission which was filed a moment ago.

I will briefly go through the legal foundation and analysis on which the submission relies on to show that climate change is a crime against humanity under Article 7(1)(k) of the Rome Statute.

The submission considers the pre-conditions that must be met in order for the Office of the Prosecutor to then consider whether there is a “reasonable basis to proceed with an investigation”. Put briefly:

1. An Article 15 submission does not require the naming of a specific individual – the submission does not do so as Students For Climate Solutions and UK Youth Climate Coalition have prioritised security objectives – it merely presents, as required, the “lead evidence”. This decision also links to the broader purpose of this particular submission, which my colleagues will speak to;
2. An important element of bringing a submission is jurisdiction. The underlying facts must have occurred in the jurisdiction of a country that has ratified the Rome Statute, but case law has confirmed that the crime can occur across multiple countries and nationals of a non-member state can be held liable if the crime occurred in the territory of a member-state – A notable case in this regard is the investigation in Afghanistan. The facts must also have occurred when the Rome Statute was ratified by the country, which is 2002 in Britain’s case. But case law has determined that it is feasible to consider facts that occurred prior to this in determining the accused’s common purpose. The facts relied on in this submission go back to the 1950s;

3. The legal tests to determine whether the case is admissible are “complementarity” and “gravity”. Complementarity likely doesn’t apply here, because most national laws do not permit national investigators to “pierce the corporate veil” meaning that corporate executives cannot be prosecuted for criminal wrongdoings associated with their business activities. Individual corporate executives can be prosecuted under the Rome Statute. Gravity is also unlikely to block admissibility because climate change is causing extreme harm such as forced transfer of populations through the displacement of millions of people as sea-levels rise; persecution through the loss of entire environment-centered indigenous cultures; and many other manifestations of extreme harm which thereby reach a similar level of gravity to constitute the “other inhumane act” of climate change.

4. The interest of justice test under Article 53 will become apparent in my colleagues’ presentations.

Moving on to the Legal Assessment, there are three layers of proof – the crime base, the threshold test, and linkage.

1. First there’s the Crime Base:
 - This is the legal foundation of the submission which demonstrates that the fact pattern of climate change constitutes the legal elements of the residual category of crimes against humanity of “other inhumane acts” under Article 7(1)(k) of the ICC Rome Statute.

- Again, my colleague will speak more to this fact pattern, but it is not difficult to see at a preliminary stage that the legal elements of other inhumane acts, such as “the infliction of great suffering or serious injury to body or to mental or physical health” are ones that are directly tied to climate change.

The submission lists what the core elements of the international crime of climate change are and they effectively serve as a definition. There are three components, which draw from the international law and from the UN Framework Convention on Climate Change:

1. the infliction of great suffering, or serious injury to body or to mental or physical health, with the awareness of the factual circumstances that established the character of the act;
 2. through significant deleterious effects on human health and welfare;
 3. from the change of climate attributed directly or indirectly to human activity; and
 4. that alters the composition of the global atmosphere which is in addition to the natural climate variability observed over comparable time periods.
- Central to the crime of climate change is its characteristic as a continuing crime. Case law has found other forms of “other

inhumane acts” to be continuing crimes such as forced marriage, and the enumerated act of enforced disappearances. They can also include acts or omissions.

- The perpetrator must also have been “aware of the factual circumstances that established the character of the act” and that the harm would occur in the ordinary course of events as a result of their acts.
 - o The submission will show that all of the above elements are indeed satisfied in this case: Climate change causes and will continue to cause great suffering, the acts or omissions by BP senior executives caused this great suffering to a significant degree, and they knew that continuing such acts or omissions would lead to such great suffering.
 - For example, (and Reeeelke will speak more to this), Research shows that from 2000 to 2019, anthropogenic produced global warming contributed to the deaths of approximately 5 million people. Floods in Pakistan have displaced over 30 million people.
 - Similar devastating effects will disproportionately affect certain populations. For example, by 2050 it is estimated that 80% of the global population at risk of hunger will be in Africa and Asia.

2. Secondly, Article 7(1) requires the “threshold test” to be met. There are two legal elements to this test:

- Firstly, article 7(1) defines the threshold test as the “widespread or systematic attack directed against any civilian population, with knowledge of the attack.”
 - o Case law established that this “attack” does not need to be violent, military or occur during war.
 - o Rather, it can be a “campaign or operation carried out against the civilian population” without the use of force or military action. It can be “any mistreatment of the civilian population” and “imposing a system”.
 - o The purpose of the attack is immaterial: so the purpose of maximising profits of fossil fuel companies does not absolve their executives from liability, for example.
 - o The “civilian population” aspect points towards the requirement of those affected to be “the collective”. It is obvious how climate change meets this requirement.
 - o The attack does not need to be widespread AND systematic. Widespread means a “large number of civilians”.
 - The systematic element is linked to Article 7(2)(a), which I will discuss next. Importantly, the case of the

Situation in Kenya established that this applies to situations where businessmen act in concert with politicians as part of an organisational policy.

- Secondly, Article 7(2)(a) specifies that an “attack directed against any civilian population means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population pursuant to or in furtherance of a State or organisational policy to commit such an attack.”

- o The attack can be a “series of events” amounting to an organisational policy, like structures, the contents of a political program, etc.
- o Case law, such as the Katanga and Blaskic Trial Judgments, suggested that a policy can be inferred from “corporate marketing, communication strategies, speeches of corporate executives, and holding regular meetings to build internal agreement on goals and actions...”
- o These occur on a daily basis within fossil fuel corporations.
- o The policy doesn’t have to be formalised. But the perpetrator must know it is taking place or was reckless as to their risks. Again, the motive of maximising profits does not absolve oneself from liability.

Nothing is more systematic than a corporate strategy to advance fossil fuel extraction and entrench global dependency on fossil fuels whilst intentionally designing marketing campaigns of misinformation, doubt, delays, deception and political dominance to entrench their petroleum products economically and socially.

3. The final component of proving an international crime is linkage.

- The two modalities of linkage are command responsibility under Article 28 and individual responsibility under Article 25.

- o Command responsibility can refer to corporate executives presiding over a command structure – such as the one embedded within a fossil fuel corporation. The superiors within the corporate structures must have known or consciously disregarded information about clear indications of climate change resulting from the actions of their subordinates.

- o Individual responsibility is aiding and abetting. The “common purpose” element of Article 25 is important here, which has two forms: “co-perpetration” and the residual provisions. For co-perpetration, there must be two or more persons who have a common plan and coordinate essential contributions to that plan.

- In this submission, the group is the senior corporate executives and their affiliates;

- The common purpose is the maximisation of petroleum profits regardless of the infliction of suffering through climate change as an “other inhumane act” under the category of crimes against humanity; and
- The contributions are creating doubt in climate change science, dependency on fossil fuels, delay in action, deception and political dominance.

On that note, I will hand over to Relke Comer, who will speak to the groups’ submission’s more detailed factual assessment of climate change as a crime against humanity.

Time: 16:56

Rilke:

Intro

1. Thank you Pheobe.
2. My name is Rilke Comer. I am a third-year law and geography student at Te Herenga Waka: Victoria University of Wellington. I am the current Co-President of Students for Climate Solutions, and the Co-President of the Victoria University Climate Clinic.
3. I intend to become a school teacher. Unfortunately, given the state of our planet, I have chosen to prioritise a career in climate litigation
4. My speech will outline what we allege to be the irrefutable factual evidence that proves BP’s senior executives knowing causation

and perpetuation of the climate crisis, and that their knowledge of the climate crisis, including the suffering that was projected, and is predicted to increase, was also known and ignored in their pursuit of the common purpose of maximising petroleum profits

5. This will be done through explaining 5 key behaviours exhibited by BP senior executives, including establishing doubt, ensuring dependency, fostering delay, inciting deception and maintaining dominance
6. All evidence presented is cited within our submission

The reason for focusing on BP senior executives is due to the fact that BP is organised as a hierarchical chain of corporate command, where senior executives maintain effective control over subordinate employees, thereby exercising control over the decisions advancing their common purpose of maximising petroleum profits regardless of the suffering from climate change.

We allege that BP senior executives had knowledge of the forefront of scientific research into climate change impacts, including the severe human suffering flowing from their common purpose of maximising fossil fuel profits.

Doubt and Disinformation

1. FIRSTLY, We allege that BP senior executives, both former and current, have an extensive record in establishing doubt in climate science through the active and strategic publication of disinformation and misleading statements, which can be demonstrated from the following evidence
2. **Throughout the 1980s, 90s and early 2000s**, BP senior

executives made speeches undercutting the climate science outlined in documentaries released by BP a. Former managing director **Patrick Gillam**, former Chief Executive **John Browne**, Former deputy Chief Executive **Rodney Chase**, Former group vice president for strategy and policy development, **Nick Butler**, all made claims articulating climate science as uncertain and complex.

- b. These statements demonstrate BP's senior executives open admission of climate science, including the probable causes and consequences, and their clear strategy of pursuing the common purpose of maximising petroleum profits through advancing doubt in climate science
 - c. BP senior executives oversaw education materials which asserted false claims, including that the greenhouse effect "is not in itself harmful to man or the environment".
 - d. BP senior executives attempted to break the causal chain of scientific attribution of climate change to the decisions of fossil fuel corporate executives
 - e. They sought to cast doubt on the connection between petroleum products central to their common purpose, and the resultant climate change, by presenting a false timeline of global warming and attempting to argue that climate change is inevitable
 - f. BP senior executives instead attribute the blame for climate change on individual consumers, absolving them of culpability
3. This rhetoric allowed BP to configure fossil fuels as a human need, justifying their continued corporate expansion to pursue petroleum

profits.

Dependency

1. **SECONDLY**, BP executives deliberately and falsely claimed that **continued dependence** on their petroleum products was a solution to the climate crisis, this was exemplified in a number of key statements and events:

a. **In 1997, former BP chief Executive John Brown** clearly articulated that BP's intention was to have petroleum products be globally depended upon, despite scientific research establishing them as the predominant cause of climate change

b. **In the year 2000**, BP rebranded from British Petroleum to "Beyond Petroleum" to encapsulate their purported transition to green energy

i. Despite this rebranding, **Browne** claimed that the rebranding was "not meant to be taken literally", that the world should not abandon oil and gas but instead "improve the ways in which it is produced and used so that our business is aligned with the long term needs of the world"

2. This ultimately demonstrates that BP senior executives created dependency on fossil fuels by falsely presenting their products as a viable solution to climate change, whilst deceiving the public of effective solutions to climate change in order to further their common purpose.

Delay

1. **THIRDLY**, BP executives sought to **foster as much delay as possible** within climate policy and international law reform

addressing climate change, through claiming, “there isn’t a single solution”

2. Any delay in responding to climate change was portrayed by BP executives as a positive approach, which includes the following evidence:

- a. In a public speech, the former BP managing director **Patrick Gilliam** falsely stated that the solution to climate change is “much more likely to be achieved through respect for market mechanisms and industry led investment”.
- b. BP executives issued a press release advocating for a strategy of delay, arguing the long term nature of the issue, the global scale, the considerable risks of action and the fact that a great deal of the world's energy needs will need to be met by oil and gas for a considerable time to come justifies the continued use of fossil fuels.
- c. The delaying efforts of BP senior executives was advocated directly in pursuit of the maximisation of petroleum profits and consequently entrenched global suffering

Deception

1. **FOURTHLY**, BP senior executives advanced their common purpose through **strategic deceit**
2. they oversaw corporate communications strategies advocating false solutions to the climate crisis to avert the public and governments away from the only viable pathway to address climate change, that being the cession of fossil fuel production
3. **This strategy was exemplified in a number of ways by senior executives of BP:**
 - a. The advertising that yet to be invented technology was a viable solution to climate crisis

- b. The discrediting of existing technology, which displaced petroleum products as a contributor to climate change
 - c. The misrepresentation of their emissions
 - d. The lack of disclosure of information pertaining to the extent of expansion of BP services
 - e. The intentional advertisement of false solutions and misinformation within educational programs and materials
 - f. The buying of carbon credit below market value
 - g. The Beyond Petroleum rebranding
 - h. The abandonment of emissions reduction targets in favour of adopting carbon trading
 - i. The extensive greenwashing campaigns, creating an image of differentiation in the public eye
 - j. The coining of the term “carbon footprint” in order to advance transference of responsibility from BP senior executives onto individual consumers
 - k. The localization of their marketing according to national context, utilising linguistic techniques in order to strategically deceive domestic audiences of effective climate solutions
 - l. Identifying climate risks as those threatening BP profits rather than humanity at large
4. **By 2021, the BP chief executive** presented the company as an “integrated energy company” and pledge a transition to net zero emission, despite “96% of the company’s spend is on oil and gas”
5. **The 2022 InfluenceMap** report found that BP senior executives oversaw 61% of marketing statements making green claims, whilst only spending merely 1% of total capex between 2009 and 2020
6. These deceptive false solutions shifted the focus away from BP’s

senior executives role in knowingly causing and perpetuating climate change, and civilian populations were made to shoulder the burden of addressing the harm from the common purpose pursued by BP executives

- a. Branding experts concluded that “BP has appropriated a collective social concern for the environment in their construction of their brand image in order to mitigate BP’s own contribution as a global oil company to climate change

Dominance

1. **FINALLY**, BP senior executives **engaged every means at their disposal to ensure the dominance** of their common purpose by influencing political processes through lobbying government, and maintaining high level positions within government
2. Through these means, BP senior executives entrenched their common purpose into global political and economic structures
3. BP senior executives oversaw, and continue to oversee, public statements which plainly assert that their “activities may include direct lobbying on specific policy proposals by BP employees”.
4. **Within the United States, we submit the following evidence:**
 - a. **In 1998**, the American Petroleum Institute, of which senior executives of BP held key leadership roles, issued the global climate science communications plan for outlining the fossil fuel industry’s strategy to use scientists as spokespersons for industry views
 - i. This plan included intentionally creating false educational materials
 - ii. Further, scientists were paid to ensure false doubt would dominate political processes

b. Additionally, BP senior executives oversaw the following decisions:

- i. Maintaining membership of climate denial lobbying groups, such as the American legislative exchange council, who blocked laws to reduce greenhouse gases in 16 US states
 - ii. Funding lobbying efforts in the US government to roll back regulations addressing methane leakage
 - iii. Supporting the Western states petroleum association, spending more than 26.9 million to block Californian climate initiatives, including funding 16 fake grassroots initiatives
 - iv. the lobbying of the Trump administration to open up the Alaskan Arctic for drilling with trade groups co-funded by BP
 - v. BP's US political action committee lobbyists contributed to multiple federal candidates which campaigned against climate solutions
 - vi. lobbying against California low carbon fuel standard aimed at phasing out credit generation for petroleum products
 - vii. BP was even the top lobbying donor who paid to oppose the Washington state ballot initiative which would have imposed a carbon emissions fee, contributing 13 million
5. **Within the UK**, political influence of BP senior executives is entrenched in over 100 years of close collaboration based on the UK government's role as the majority shareholder in the

corporation:

- a. BP was supported by the UK government in the establishment of the global carbon economy and the governments dependence on BP's petroleum products
- b. BP was a mechanism for British exploitation of former UK colonies, like New Zealand, and other more low-lying atoll nations, who are now suffering the extreme impacts of climate change
- c. An alarmingly high proportion of BP directors were also government officials
 - i. **In 1995**, 6 of the 16 BP directors were simultaneously occupying UK government roles
 - ii. **In 1997**, the term "Blair Petroleum" was coined to demonstrate the intense relationship between BP senior executives and the Blair Administration
 - iii. **In 2015**, officials in government reported that "the presumption that the British government should have an intimate relationship with ... BP...was in the air you breathed"

6. The extent of co-dependency between senior BP corporate executives and the UK government/government officials for over 120 years ensured that citizens of the world did not stand a chance in resisting the pursuit of the common purpose to maximise profits regardless of the suffering induced by climate change

In summary, the behaviours exhibited by senior executives of BP that demonstrated their knowledge of climate change, and their ignorance of the suffering inflicted in causing and perpetuating climate change, are supported by extensive evidence.

I now hand the floor over to Lauren, who will explain the value of this

report as a template for future submissions, why we are bringing this case to the ICC and why we have chosen BP, as well as the importance of assessing future harm caused by climate change.

Time: 29:15

Lauren:

Intro:

- My name is Lauren Craig, I'm 24 years old, I use she/they pronouns, I am the co-president of Students for Climate Solutions and a law student from Aotearoa New Zealand. Today I will be explaining our legal argument as a transferable framework, why we have brought this submission to the ICC, why it is against BP, and the relevance of future harms.

Our Why

- We are standing here today because we have to. Our future is threatened, and as youth we have the most time to lose. Climate change threatens and stands to erase our futures – the devastation inflicted on the environment not only threatens the habitability of our planet, but the consequential impacts of climate change are so dire that international relations scholars have referred to climate change as a “threat multiplier”. As the climate crisis continues it will exacerbate global emergencies, resource insecurities, and the ICC can be assured that they will continue to receive and influx of claims of genocide, war crimes, crimes against humanity, and aggression.
- The legal framework developed in this report is being put into practice today against senior executives of BP, but its scope is not limited to their actions. We are confident in the legal arguments made in this report that it is entirely possible other large emitters could be found guilty using the same legal framework. The report is careful to lay out the law separately from the facts, allowing future submissions to be this brought from other parties without significant further legal research being carried out.

Investigative Element of the ICC

- Climate change disproportionately impacts already marginalised and disadvantaged communities, meaning victims of climate change are less likely to have the resources to achieve justice on their own. Through the office of the prosecutor's investigatory function, the international criminal court is the ideal mechanism to achieve justice for these communities. Particularly where the states in which those communities reside do not have any feasible domestic legal avenues for climate protection or accountability. The legal framework developed can also act as a transferable template. A major advantage of our submission establishing a public framework is that when other parties use it to bring forth their own submissions, victims of climate change may be better suited to the ICC's evidentiary burden required for the initial investigation.

Why ICC

- Climate Change is an international issue, which is the key reason this case has to be brought to the International Criminal Court. The domestic avenues for these kinds of challenge do not exist, and the ICC is able to provide an appropriate legal remedy. The scale of harm contained within our report is not just contained to Aotearoa New Zealand and the United Kingdom, and that harm cannot be accurately examined in the context of solely these jurisdictions.

Funding

- We are also incredibly aware of how underfunded and under resourced the ICC, and in particular, the Office of the Prosecutor are. The introduction of additional investigations into areas novel to the ICC, such as climate justice, further highlight the importance of this institution and we are mindful of this investigation potentially having to compete with other global injustices. These novel submissions are going to continue to be brought toward the court, and it is our hope that the international community can find a way to properly address injustice through an intersectional lens.

Why BP

- We are young activists from Aotearoa New Zealand, a former British colony, and the United Kingdom, the colonial power. We need to begin by addressing the harm that has come from our own backyards, which makes the company formerly named 'British Petroleum' the only logical conclusion. While it is entirely possible that other large corporations and emitters are also liable for crimes

against humanity, BP's senior executives are those whom we have analysed the actions of, and we know, through publicly available evidence, that they have committed, and are committing, this crime against humanity.

Continuing Crime of Climate Change

- Central to our legal submission is that climate change is a continuing crime, much like other inhumane acts that fall under crimes against humanity. The common purpose of BP senior executives has roots that go back as far as the beginning of the 20th century , and continue right through to the present day, but I want to take a moment to emphasise how this century-long purpose is presenting us with more severe consequences every day. Between 2002 and 2019, an estimated 5 million people have died as a result of climate change, an equivalent to the population of New Zealand. Between 2020 and 2050, it is predicted that 83 million people will die – more than 16 times the population of New Zealand.
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- These future consequences are, and were, entirely predictable, and these consequences were made aware to the senior executives of BP. Article 30 of the Rome Statute establishes that intent is met when the accused is aware of what will occur in the ordinary course of events as a result of their acts. As we have seen from my colleague Ri's speech, the facts show that BP were aware of the consequences their actions would have. We allege that the on-going contributions of senior corporate executives to the common purpose of maximising petroleum products, inform the intent of the crime and thus allow for the future harm from climate change to be considered in this submission.
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- I would now like to pass over to George, who will talk to the wider relevance of our submission in the context of climate justice.

Time: 34:41

George:

[Thank you Lauren and audience].

My name is George Carew-Jones and I am an activist with the UK Youth Climate Coalition. We are a group of 18-29 year old volunteers from the United Kingdom working to pursue climate justice.

We have defined the legal structure and fact base of our case. I want to focus now on the relevance of this Article 15 submission in the wider context of the climate crisis.

It will not escape your attention that this panel does not look much like the panel of a traditional ASP side event.

We have all come here as young people, and like all young people, we have never had the luxury of living in a world where climate change can be ignored. Each of us has devoted large parts of our teenage and young adult lives to desperately seeking answers as to why we are on track for an existential climate catastrophe.

We have spent our lives asking the very same questions that are raised by this case. “Why are those with the power to change doing nothing to stop climate change?”. “Why is the systematic destruction of our environment allowed without punishment?”.

As our submission outlines, those who have the power to change have historically allowed the uncertainty around climate change science to be overemphasised, at the expense of climate action. There were those who sought to ensure that this uncertainty became commonplace.

There is a risk that we consider delays to climate action as a conventional wisdom.

Sometimes it takes a new generation to call this out for what it is. In school we are taught values of compassion – we are taught to be a ‘good citizen’. We are taught to be part of a wider society and to care for each other in a way that benefits everybody.

Yet as we become accustomed to the adult world we do not see these values reflected.

Instead, we see decision makers causing systemic harm to the most vulnerable in the world in the pursuit of private profit.

Our report outlines how this was manifest through the true impacts of oil and gas being historically played down, with society then being made dependent on these fuels through the stifling of alternatives. And all along

we were told that this was not a crime. That actions like these are within the rules of society.

So today, on behalf of the global youth concerned about climate change, we say that these actions have corrupted conventional wisdom. We believe there is nothing wise about seeing these actions as legal. Our wisdom says these actions are crimes. And this wisdom doesn't come from the top down, it comes from the bottom up.

It is perhaps at this point worth reflecting on why it has taken so long for a case like this to be brought to the ICC. Ultimately, it brings up questions of what the role of the ICC is. Why we are all here?

Environmental crimes in general have not historically gained the attention that they deserve in this court. Whilst not part of their campaign, we are sympathetic and supportive of the campaign for ecocide to be recognised as a crime pillar under the Rome Statute. Our case argues that systemic environmental damage should be considered a crime against humanity under the provision of "Other Inhumane Acts". And as we have said, we firmly believe this is a strong template rationale upon which other actors should bring similar cases to the ICC. But the recognition of ecocide as a crime in and of itself does widen the scope of these possible cases.

Ultimately the point of cases like ours, and hopefully similar cases beyond, is to bring an end to the environmental impunity enjoyed by decision makers around the world.

We do not see our case as political. We do not see it as a controversial widening of the remit of this court. Groups like ours, Students for Climate Solutions and the UK Youth Climate Coalition, are often mischaracterised as radical actors that are set on tearing down institutions of progress for the sake of perfection. But this is not the case.

Indeed, both of our groups have a history of productive climate advocacy within systems of progress.

This is not the first case of climate litigation brought by Students for Climate Solutions. In late 2021 these people on stage with me filed a lawsuit in the New Zealand High Court against their government's decision to grant new onshore oil and gas exploration permits. And

following the case the New Zealand government has now decided to amend the Crown Minerals Act to allow itself more power to reject exploration permits on the basis of climate concerns.

UKYCC, too, has a 14 year history of sending youth delegates to the annual UNFCCC Conference of Parties, where we undertake advocacy and direct actions to ensure youth expectations are included in negotiations.

So we are not here as revolutionaries. We are here to work within this esteemed institution to finally bring recognition for climate crimes as crimes against humanity. We see our case as perfectly within the remit of the ICC. In fact, we see cases like these as central to its purpose as a court of last resort; and central to its purpose as a court that brings an end to impunity for those actors harming the most vulnerable in the world.

There can be no solution to the climate crisis without climate justice. We know that in this fight we are *not* all in it together – our report argues clearly that some have yielded profits whilst delaying climate action. Others, those most vulnerable in the world, have suffered from that. Indeed, they continue to suffer forced displacement, ill health, death, the erosion of place-specific culture, and the loss of entire nations in a manner more extreme than any conceivable crime of aggression. Territory not seized, but disappeared. These climate crimes cannot go unpunished in this court. There must be justice.

I will now pass over to my colleague Josh who will talk about the importance of our request for reparations within the submission.

Thank you.

Time: 41:48

Josh

Josh SIDE EVENT SPEECH

When your crops dry up in a drought, who pays?

When your home is burnt to the ground in a wildfire, who pays? When your whole community disappears below the waves, who pays?

Before closing this side event, we felt that it was important to zoom out, and place this submission in the context of the climate crisis we are seeing unfolding in front of our eyes, and to address why as part of our submission we wish the ICC to consider the appropriateness of reparations.

Through out the actions of BP's executives evidenced in the submission, there is one thread: the Common Purpose. The Common purpose to maximise Petroleum Profits, at the expense of everything else. What did subservience to this common purpose earn BP and its executives? From 2005 to 2021 BP has accumulated, without adjusting for inflation, \$162,086,000 (162 billion and 86 million) in net profit. According to the World Bank, this is more than the GDP of over 140 countries including nations such as Slovakia, Croatia, and Kenya.

In contrast, as evidenced in the submission, research has revealed that in 2011 BP only invest £1.6 billion in clean energy, and an even lower \$750 million in 2020. In FACT, BP has invested only 1% of their total capital investment in clean energy. Does this look like a balance between present profits and investing in our future? Does this feel like responsible decision-making?

So, what are the consequences of these choices? What does it mean for young people around the world? I could read out a series of big scary statistics, as outlined in the report, however, I wanted to take a moment to humanise the impact of alleged decisions taken by those such as BP's senior executives.

As a group, we recognise we are not representative of the entire diversity of global youth, nor are we representative of those most affected. This is why we are using our collective privilege as individuals from the global North, as well as the individual privileges, such as white privilege held by some members of the collective, to amplify the experiences of those most affected by the climate crisis.

I have two quotes by fellow youth from two climate-vulnerable nations, who have given me their permission to voice them on their behalf. For the protection of those individuals, I am about to quote them under pseudonyms for their privacy and safety:

Lucy, from Mwaiti - Her quote

This year alone Malawi has faced the impacts of tropical storm Ana and Gomba This has affected nearly a million (945,278 people) and directly killed 46 (people). Approximately, 130,000 under-five children are affected and in desperate need of humanitarian aid.

These and past tropical storms have caused untold amounts of pain. In the last 8-10 years malnourishment and cholera cases have risen, reversing decades of decline. Schools are used as emergency shelters for months on end, preventing boys and especially girls from receiving the education they deserve.

When I support recovery efforts, I meet families who have lost their homes, their neighbours, their friends and sometimes even their relatives. They look for hope from me to tell them that help is on the way, and that things will get better; with each worsening storm season, I find it harder and harder to give them that hope. I find it harder to give myself that hope. We are paying the highest price for a problem we did not create.

Geoff Reyes from the Philippines

13 years after Typhoon Ondoy, I still can't believe I survived the very storm that changed the course of my life. As an 11 year old kid, I wasn't able to realise what happened to me was nothing but atrocious and unfair, given my nothing to least contribution to the climate crisis. It was only once I joined the climate justice movement that I realise how unjust my experience was.

Developing countries like my country, the Philippines, are forced to deal with one horrible effect of the climate crisis while we are still recovering from the last one. Wealthy countries will need to be held accountable for their historical contributions to Yolanda, Odette, Paeng, and my dying future.

If my community and the leaders of grassroots movements around the world have taught me anything, it is that the historical roots of the climate crisis demand that it not be viewed in isolation. The exploitation of our lands and waters, our raw and natural resources, and the violation of our basic rights are at the root of this crisis, and fighting for climate justice requires addressing its capitalist, imperialist, colonial, and patriarchal roots. It is not as simple as reducing emissions, and it will require all of

us to collaborate.

This never-ending crisis requires immediate change in every aspect of society—a challenge that appears daunting and impossible, but not for a generation that is willing to speak the truth and do what is necessary for survival. Young people are present in the recent COP27 negotiation halls. We are leading protests, we are organizing actions, and we are helping communities.

My generation has been at the forefront and intersections of the justice movement, and my friends have taught me that changing the world is not only necessary but also possible. It's possible.

[END QUOTE]

I want to give special thanks to Geoff and Lucy for those insights into their personal experience. We commend them for their unwavering commitment for seeking climate justice.

Following on, what would we like to see happen? We recognise that

the ICC does not exist in isolation and that the demand around climate reparations to address Loss and Damage has been ongoing for over 30 years.

As George previously mentioned, UKYCC has been attending COPs for 14 years. This year I was lucky to be part of the COP27 delegation.

COP27 had many failing, but on one issue crucial progress was made, with the agreement to operationalise a L&D fund within one year.

Whilst details remain unclear around this fund; who pays in and how much, Who gets to draw down and how; one thing was crystal clear to us: youth across the globe were United on this issue. We see that the climate crisis, loss and damage, and the disconnect between those who cause and those who suffer IS the grave injustice of our time.

Youth

across borders, together, are no longer demanding, we are telling those in power that polluters must be held responsible and pay.

This is why as youth from the greatest coloniser in history. I personally feel a responsibility to use my privilege to hold the biggest polluters, the

biggest climate criminals, that live on my doorstep, to account.

We are not here to settle all the details on a potential L&D fund, however, what we do hope is that our submission supports the expansion of the discussion around who should pay for Loss and Damage to include non-state actors.

Whilst we have sign-posted the UNFCCC as one method for climate reparation funds to be delivered. We leave the decision on the exact mechanisms with which reparations should be paid to the ICC, if they do deem such reparations necessary.

All that we wish for is that financial support is created in the places where people have suffered most, to begin to reverse the harshest damage of climate change, which disproportionately affects people in the global south and in particular indigenous and marginalised communities.

Thank you

Together for Justice

Time: 51:10

Closing: Rilke

We sincerely thank you all for attending our event today and we hope that you will support our submission, and the work we will continue to conduct in the fight for climate justice.

We will remain in and outside of the room if you have any questions. You're also welcome to email enquiries to climatecrime@outlook.com

Thank you!

Time (Min:Secs) : 51:38

Climate Crime Campaign Music Fades In. Dark, deep rumbling base with slight sci-fi overtones.