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Subject: Climate justice, climate debt, legal moves, how much do we owe?
Date: 15 December 2012 4:29:19 PM AEST
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Begin forwarded message:

From: "Graham" <xxxxxx@xxxxxx.com.au>
Date: 25 April 2012 8:57:58 AM AEST
To: "Malcolm Roberts" <catalyst@eis.net.au>, and others
Subject: FW: Climate justice, climate debt, legal moves, how much do we owe?

Hi fellow Australians,

As we celebrate the hard won freedoms we enjoy on Anzac day, please pay attention to moves outlined below to remove those freedoms under the guise of concern for climate change. Though hard to believe, Australian lawyers and politicians are currently, as we celebrate Anzac day, looking for ways to ensure Australia can be forced to surrender control and massive amounts of money to the UN and poorer countries using climate change as an excuse. These will be enforced changes, NOT democratic changes.

Enjoy Anzac day and remember. Enjoy your freedoms and protect them.

Graham Williamson

Explaining the debt and why we owe climate compensation

<http://uk.oneworld.net/guides/climatechange>

"The concept of climate justice seeks to restore equity in two ways. Firstly, that richer countries should repay their climate debt by undertaking severe cuts in emissions, reserving "atmospheric space" for the growing emissions of poorer countries. Secondly, that they should provide financial support for low carbon transition and adaptation to the damaging effects of climate change.

These principles of climate justice are firmly enshrined in the UN Framework Convention on Climate Change (UNFCCC). This treaty was agreed at the Rio de Janeiro "Earth Summit" in 1992 with the ultimate objective of "stabilization of greenhouse gas concentrations in the atmosphere." (NOTE: The UNFCC was enforced in Australia under [Part 1 Section 3a of the Clean Energy Act](#))

The Convention demands application of the precautionary principle and that the scale of emission reductions should be assessed "in the light of the best available scientific information." And international climate change laws must observe the Convention's commitment to "common but differentiated responsibilities" between richer and poorer countries.....Desperately slow implementation of the UNFCCC vision has driven climate justice campaigners to refer increasingly to human rights law and to the legal principle of [reparations for damages](#)."

In 2010.....

<http://www.guardian.co.uk/global-development/poverty-matters/2010/nov/12/dhaka-climate-court-criminals>

"Imagine an international court ([17](#), [18](#)) where the poorest people in the world could sue countries such as the US or Britain for failing to keep to agreements to reduce climate emissions or for knowingly causing devastating [climate change](#). It's some way off, but this week has seen an extraordinary tribunal being held in Dhaka, the capital of [Bangladesh](#), with more than 1,200 people including British lawyers, politicians and economists, listening to the testimonies of villagers living at the frontline of climate change."

In 2011 Durban UN conference promotes International Climate Court

<http://www.foxnews.com/politics/2011/12/10/un-floats-global-climate-court-to-enforce-emissions-rules/>

"U.N. Floats Global 'Climate Court' to Enforce Emissions Rules

[United Nations](#) climate envoys have proposed the creation of a global "climate court" that would be responsible for enforcing a sprawling set of rules requiring developed countries to cut emissions while compensating poorer countries in order to pay off a "historical climate debt."..... The proposal is meant to "guarantee the compliance of Annex I Parties with all the provisions of this decision." Annex I countries are mostly developed countries, covering the [United States](#), [Britain](#), [Australia](#), [Canada](#) and much of Europe -- including countries that are struggling financially such as [Greece](#) and [Portugal](#). The rules of the road the court would presumably enforce are based on the view that these developed countries owe developing countries a "debt" over climate change, and must provide financial aid in addition to taking major steps

toward cutting emissions. In one section, the document calls for developed countries to help poorer countries with "finance, technology and capacity building" so they can "adapt to and mitigate climate change" while helping eliminate poverty. Another section provides that developing countries should receive an amount of money equal to the amount "developed countries spend on defense, security and warfare." Yet the document also calls for a guaranteed end to warfare altogether -- for the sake of curbing climate change. One section, noting that "conflict-related activities emit significant greenhouse gas emissions," calls on all parties to "cease destructive activities" like warfare -- and then channel the money that would have been spent on war and other defense projects toward "a common enemy: climate change." The document also asserts the "rights of mother earth," a concept that environmental activists have been pushing for."

But according to Gunter (1), the Kyoto Protocol, which the Gillard government legislated to enforce in Australia through Part 1, [Section 3a of the Clean Energy Act](#), is a sham when it comes to controlling climate (1):

"Kyoto is now mostly about punishing rich countries for being rich and forcing them to pay vast sums — up to \$1.6-trillion a year — to the UN for redistribution to poorer nations (after, of course, the UN has taken a healthy cut off the top to support its own wasteful bureaucracy, nepotism, cronyism, incompetence and corruption)..... Whereas the original Kyoto Protocol laid out how much each developed country was to reduce its carbon emissions — Canada agreed to reduce its CO2 emissions to 6% below 1990s levels — the Durban agreement (which is effectively an amendment to Kyoto) concentrates mostly on blaming the developed world for climate change and dictating how much guilt money it should pay. The implication is that somehow all this money — at least \$100-billion a year, rising to as much as \$1.6-trillion — will buy an end to global warming."

Australian government supports Durban moves to force Australians to pay their climate debt

<http://www.theaustralian.com.au/news/opinion/durban-fine-print-shows-we-will-lose-our-autonomy/story-fn558imw-1226221278321>

"CLIMATE Change Minister Greg Combet fully supports the decisions made at the Durban climate talks. These include binding Australia to take action. We are going to commit ourselves to an offshore body that can make binding decisions on our economy. We are gradually losing the ability to govern ourselves and to retain control of our destiny. A new international climate court will have the power to compel Western nations to pay ever-larger sums to Third World countries in the name of making reparation for supposed climate debt."

The Australian government even described the Durban outcome as a (2) **"remarkable step forward"**, a (3, 4, 5) **"significant breakthrough"**, and (6) **"a massively historic step."**

But what do the lawyers say?

British environmental lawyer Polly Higgins has long supported an International Climate Court (17, 18, 19).

AUSTRALIAN LEGAL EXPERTS PREPARE FOR CLIMATE COURT CASES

In Australia, the [Australian Climate Justice Program](#) and environmental and animal rights lawyer Keely Boom (20, 21, 22, 23, 24) are at the forefront of proceedings (25). In a recent article entitled **"See you in court: the rising tide of international climate litigation"** Keely explains (25):

*"The Pacific Island State of Palau recently [announced](#) it will seek an Advisory Opinion from the [International Court of Justice](#) (ICJ), asking whether countries have a responsibility to avoid their emissions causing [climate change damage](#) elsewhere. This will be the world's first international climate change case and it has been a long time coming.....Palau's announcement reveals that it intends to ask the ICJ to provide guidance on how the **"no harm rule"** (more on this below) and the United Nations' [Law of the Sea Convention](#) (LOSC) apply to climate change damage.....Climate change is not the result of a deliberate act to cause damage, but rather the cumulative effect of routine social and economic activities such as burning coal, driving cars and grazing livestock. None of these acts are crimes at either national or international law. So how could Palau have a claim?"*

Breaching the golden (environmental) rule

*The **"no harm rule"** is a rule of customary international law that declares a State has a duty to prevent, reduce and control the risk of environmental harm to other States.....It is not necessary to show actual harm in order to demonstrate a breach of this rule. An increase in risk of harm is sufficient although the increase needs to be significant. Thus, the no harm rule is particularly well suited to the problem of climate change damage.*

It could be argued that Australia has breached the “no harm rule” on the basis that:

1) Australia has had an opportunity to reduce greenhouse gas emissions

2) climate change damage was foreseeable, at least since 1992 when Australia signed the United Nations [Framework Convention on Climate Change](#) (UNFCCC)

3) Australia has not taken proportionate measures to mitigate its emissions.”

“From the air to the sea

On another front, article 194(2) of the [LOSC](#) declares that States are obliged to take all measures necessary to ensure activities under their jurisdiction or control do not cause “damage by pollution” to the marine environment of other States.

The LOSC contains a wide definition of pollution, and greenhouse gases from human sources could fit within it.

Australia may also be breaching the LOSC through failing to cut emissions and failing to prevent pollution to the marine environment. But the LOSC lacks specificity, potentially providing Australia with enough wiggle room to evade responsibility.

The causation hurdle

The 2007 [Fourth Assessment Report](#) of the Intergovernmental Panel on Climate Change (IPCC) found “warming of the climate system is unequivocal” and most of the observed warming since the mid 20th century is due to human activity.

But can one State’s emissions be linked to another’s climate change damage? The “[but-for test](#)” asks “but for the defendant’s act, would the harm have occurred?” Admittedly, this test is poorly suited to climate change, where the process is cumulative.

The but for test would require proof that without the defendant State’s emissions, the damage would not have occurred. But no one State is responsible for climate change and climate change science is fraught with uncertainties. That said, the fact multiple States have contributed to climate change does not necessarily limit application of international law to the problem.

The [Nuclear Tests Cases](#) concerned alleged damage caused to Australia and New Zealand by France’s testing of nuclear weapons in the Pacific. In this case, Australia argued that any additional exposure to radioactive contamination, no matter how small, substantially contributed to the risk of radiation-related injuries.

The ICJ did not decide on this point in the Nuclear Tests Case, yet Australia’s argument is clearly relevant to Palau’s predicament. Therefore, the appropriate test may be whether a State’s contribution has caused additional exposure to climate change damage.

Turning the tide

An Advisory Opinion from the ICJ may help Pacific Island States such as Palau turn the tide in the international climate negotiations. Arguably, a credible case can be made. A ruling by the ICJ could help provide a new impetus for Australia and the world community to find an international solution to climate change.”

And in 2012 Bob Carr announces his desire to give evidence against Australia in the International Court to assist Palau (7, 8, 9, 10, 11, 12)

Foreign Minister Bob Carr assured the UN of Australia’s support for (7) “**international legal action on climate change**” to support a UN “**resolution seeking an opinion from the International Court of Justice that would mean nations had to take action on climate change under existing treaties.**”

<http://andrewmcintyre.org/2012/04/13/carr-wants-to-give-evidence-against-australia/>

“This is either self-destructive madness or cynical tokenism to buy into the UN Security Council. Not content with attempting to undermine Australia with the introduction of a carbon tax — a deeply unpopular policy — the Gillard

government is wanting us to be hauled before the International Court of Justice to shame her own country. This is quite insane and irresponsible and clearly not in Australia's national interest. It shows the Prime Minister is prepared to betray Australia for her own policy goals. FOREIGN Minister Bob Carr has volunteered **Australia to give evidence on behalf of poor nations** that want the United Nations to investigate if big emitters – potentially including Australia – have a legal responsibility to keep their greenhouse gases from hurting other countries. Australia would give evidence supporting a push led by Palau for a UN resolution asking the International Court of Justice to assess how much countries were responsible for the damage their emissions did overseas.”

And more.....

<http://m.smh.com.au/opinion/political-news/carr-to-help-fight-emitters-australia-among-them-20120413-1wz13.html>
FOREIGN Minister Bob Carr has volunteered Australia to give evidence on behalf of poor nations that want the United Nations to investigate if big emitters - potentially including Australia - have a legal responsibility to keep their greenhouse gases from hurting other countries. In an interview with The Saturday Age in New York, Mr Carr said he had told UN Secretary-General Ban Ki-moon Australia would give evidence supporting a push led by Palau for a UN resolution asking the International Court of Justice to assess how much countries were responsible for the damage their emissions did overseas. Climate law experts said that if the resolution was successful, it could be the first step by worst-affected nations in seeking reparations from countries such as the US, China and Australia.”

But the Australian government, BOM, and CSIRO have been compiling ‘evidence’ and issuing grave predictions about climate change in Palau (13, 14), though how much of this is alleged to be caused by humans and reversible by humans is not clear (13, 14). So Australian tax payers are funding research into scaring the Palauian government about the consequences of (human caused???) climate change and now Bob Carr will assist them to obtain compensation from all Australians?

But how much money do we owe?

According to Gideon Polya (15, 16) Australia owes a climate debt to poorer countries and the “**Net Per Capita Climate Debt (US\$ per person)**” of Australia is “**\$23,900 or \$24,265, if including the effect of its huge GHG Exports on its Climate Credits**” while the “**Net Climate Debt**” for Australia is **\$0.5 trillion**. Polya concludes (16): **it is apparent that the greedy climate criminals (notably the US, Australia and Canada) and the other Climate Debtors will not repay their debt nor indeed stop polluting the atmosphere..... The Climate Debtors are stealing from the poor Climate Creditors and should be held to account by the Climate Creditors at the ICJ and the ICC.”**

See here to calculate our debt <http://sites.google.com/site/climatedebtclimatecredit/net-climate-debt>