

Fossil fuels in court: lessons from Colombia | Climate Home — climate change news

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Legal activism against coal, oil and gas extraction can make a big difference to the climate, writes SEI researcher Claudia Strambo

The use of fossil fuels is the single biggest driver of climate change around the world, emitting more than 32 billion tonnes^[1] of CO2 alone in 2014.

Yet up until now, the companies that extract, refine and sell fossil fuels have not been held financially responsible for the impacts of climate change.

A new wave of legal activism is working to change that. Eager to stop new coal mines, oil fields and supporting infrastructure, and to raise funds to support people affected by climate change impacts, climate activists are increasingly taking legal action against fossil fuel producers. Cases against coal and oil companies are now pending in the Netherlands^[2], in Peru^[3], in Pakistan and New Zealand^[4], in the Philippines^[5] and the United States^[6].

Legal action is an important strategy because it creates an opportunity to change the rules of the game, by reshaping the law or how it is interpreted. This means legal action can have a bigger impact than, for example, protests or blockades.

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But even if they have major implications for the climate, many legal actions against fossil fuels extraction projects actually focus on issues that are more important to local communities, such as water and food insecurity, impacts on farming, public health, and ethnic or human rights.

Colombia is a good example. In February 2016, the Constitutional Court decided to limit^[8] the areas accessible for fossil fuels and minerals extraction to protect the delicate *páramo* ecosystems of the Andean highlands, which are crucial to the water supply.

Some of the plaintiffs in claims against fossil fuel companies are ethnic communities defending their legal rights.

Between 2013 and 2015, indigenous groups and people of African descent filed 11 “acts of enforcement”^[9] claiming that they had not been properly consulted on oil extraction-related activities, and demanding compensation for environmental and cultural impacts.

In February 2016, the Constitutional Court suspended the operations^[10] of the company Pacific E&P in Quifa (Meta department) and of Ecopetrol and Petrominerales in Orito^[11] (Putumayo department) for failing to consult with ethnic communities as required.

Comment: Closing the gap between Paris goals and fossil

fuel production^[12]

Legal activism in Colombia is also shifting the political economy of the extractive sector. Historically, the sector has kept a low profile, advancing its interests through lobbying and by taking advantage of ambiguities in the law and poor enforcement.

This strategy was aided by the fact that fossil fuels extraction is often concentrated in remote areas, where the state has been traditionally mostly represented by the military, not regulatory agencies (see for example this excellent analysis^[13] of coal in the Santa Marta Valley). Under these conditions, local people have little recourse to protect their rights and interests.

Civil society groups have gotten stronger and more organized, however, and new information technologies have bolstered their efforts. In the past five years, they have not only won legal battles, but also tarnished the extractive sector’s image in Colombia.

With its longtime strategies not working anymore, the sector is trying a new, higher-visibility strategy, with official statements^[14] from the Colombian Association for Mining, for instance, calling for “clearer rules of the game”. This would have been inconceivable just a few years ago.

Analysis: Why the new climate math is a declaration of war^[15]

Still, there are limits to the power of legal activism. Although legal strategies are effective, they also require significant financial resources and technical knowledge that many people do not have access to. Indeed, those most directly affected by the extraction of fossil fuels tend to have very limited means to voice their concerns and defend their interests.

Civil society groups - including both domestic and international NGOs - play a crucial role in ensuring that even poor, disenfranchised, geographically isolated populations can have their voices heard. The Coal Action Network, for instance, has been advocating against coal extraction in Colombia^[16] and elsewhere^[17] based on both its global climate impacts and on its local environmental and socio-economic impacts.

But as noted above, local people’s concerns about fossil fuels extraction may have little to do with the climate - and some of the remedies sought may not benefit the climate, such as improved revenue-sharing, or better accommodation of local needs.

If global climate activists want to tap into local resistance to help keep carbon underground, they will need to follow the Coal Action Network’s example: find ways to connect their global cause with local priorities, and listen to and advocate for their allies.

Claudia Strambo is a research associate at the Stockholm Environment Institute. The post is based on her presentation and discussions at the International Conference on Fossil Fuel Supply and Climate Policy, held 26–27 September in Oxford.^[18]

Referencias

- 1.^32 billion tonnes (www.iea.org)
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 - 3.^Peru (www.theguardian.com)
 - 4.^Pakistan and New Zealand (www.nytimes.com)
 - 5.^Philippines (www.theguardian.com)
 - 6.^United States (www.ourchildrenstrust.org)
 - 7.^Weekly briefing: Sign up for your essential climate politics update (www.climatechangenews.com)
 - 8.^decided to limit (lta.reuters.com)
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