

Global Trends in Climate Change Litigation

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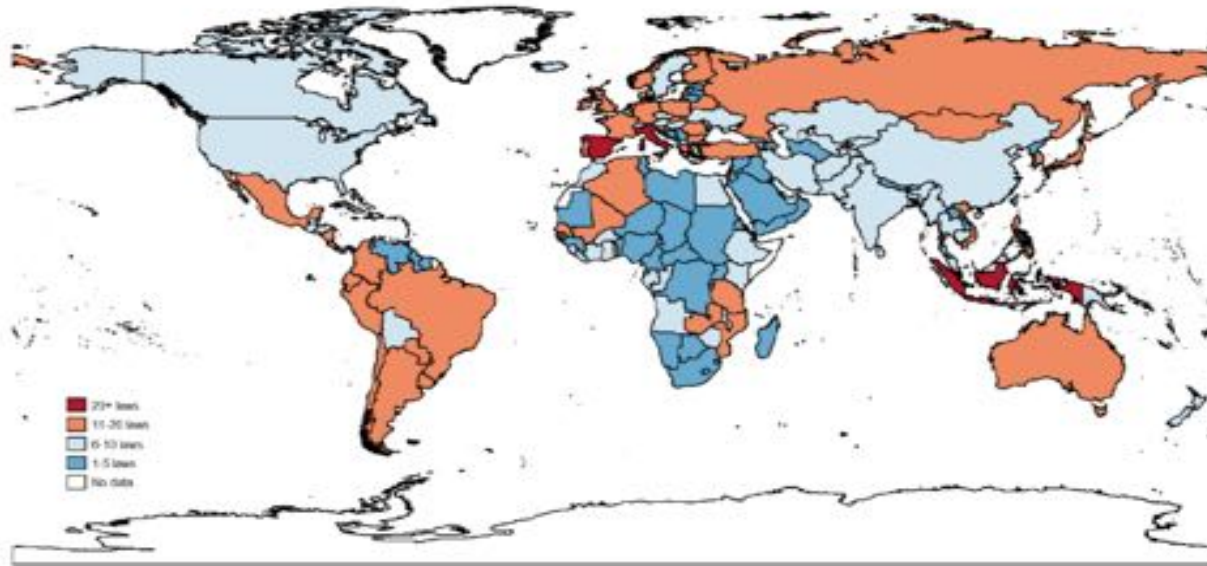
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Commitments – international and national



Paris: limit warming well below 2C, and to pursue efforts limit to 1.5C

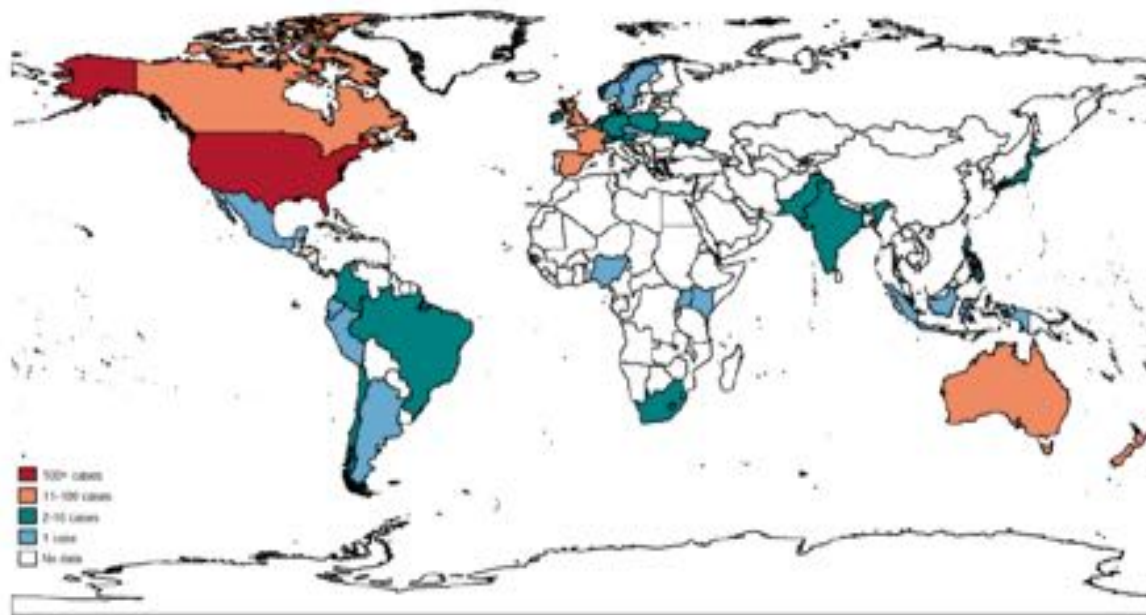


GRI/CCLW: 1,800 laws in 197 countries and EU as a block

“Flood the courts” with legal cases



Jeffrey Sachs, ‘A proposal for climate justice’ (LSE, Oct/2017)



GRI&Sabin: 1,551 cases in 34 countries and 9 regional or international jurisdictions (1,188 in the US)

Databases

LSE Grantham Research Institute on Climate Change and the Environment

About Methodology Climate Laws Publications

Climate Change Laws of the World

Use our database to search and browse climate laws, policies and litigation cases globally.

Search for countries, legislation and policies and litigation cases

- Climate laws and policies: 1810
- Climate litigation cases: 343
- Featured country profiles: European Union, Indonesia, China, India
- Visualise data on the map

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Climate Change Litigation Databases

U.S. CLIMATE CHANGE LITIGATION **NON-U.S. CLIMATE CHANGE LITIGATION**

This site provides two databases of climate change caselaw. Cases in the databases are organized by type of claim and are searchable. In many cases, links are available to decisions, complaints, and other case documents.

Routine cases

- cases at lower levels of governance are as important as high-profile cases
- Public law challenges in renewable energy projects
- ignoring 'invisible' change cases can result in perilous consequences for climate change policy (Bouwer, 2018)



Judges outside the US tend to rule in favour of climate action

- Court cases may be brought by plaintiffs seeking to strengthen climate action (“pro regulation”) or soften climate action (“anti regulation”)
- Outside the US between 1990-2019, judges have been inclined to rule in favor of stronger climate action
 - Ruling in favor of pro-regulation plaintiffs and against anti-regulation plaintiffs

	Total rulings	Pro climate rulings	% pro-climate
US	534	225	42%
Non-US	355	187	53%
Of which OECD / EU	300	153	51%
Of which non OECD	55	34	62%

Climate litigation in the US: Pro and anti

↓ **Outcomes** of 721 cases between **1990-2016**: anti favoured pro-regulatory, with a ratio of 1.4:1 (McCormick, 2018)

↑ **Drivers** of 159 cases filed between **2017-2018** (first 2 years of the Trump Administration): lawsuits advancing climate protections exceeded those opposing, with a ratio of 4:1 (Adler, 2019)



Strategic litigation



Against governments

Pre-2015



Post-2015



in the Global South

Poor enforcement of existing legislation, rights-based, linked with other environmental problems



*Asghar Leghari v.
Federation of Pakistan
(2015)*



*Future Generation v.
Ministry of the
Environment and Others*



*Earthlife Africa Johannesburg v
Minister of Environmental Affairs
& Others)*

Against corporations

Pre-2015

Oxford Journal of Legal Studies, Vol. 38, No. 4 (2018), pp. 841-868
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If at First You Don't Succeed: Suing Corporations for Climate Change

Geetanjali Ganguly*, Joana Setzer** and Verle Heyvaert***

Abstract—This article discusses the history and the future prospects of private climate litigation, which seeks to hold private entities legally accountable for climate change-related damage or threats of damage. It argues that, following failed attempts to clear judicial thresholds with regard to standing, proof of harm and causation, a new wave of private climate change lawsuits can be identified, and it is by no means doomed to failure. This is because climate change litigation takes place in a rapidly evolving scientific, discursive and constitutional context, which generates new opportunities for judges to rethink the interpretation of existing legal and evidentiary requirements and apply them in a way that will enhance the accountability of major private carbon producers. Moreover, even unsuccessful cases can contribute to articulating climate change as a legal and financial risk, which may help to guide climate change-responsive adjudication in the longer term.

Keywords: private climate litigation, Carbon Majors, judicial interventions, climate change-related damage or threats of damage, climate risk disclosure

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Post-2015



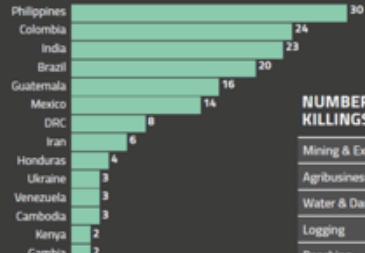
Overcoming challenges / progressive outcomes

ENVIRONMENTAL RULE OF LAW

First Global Report



TOTAL NUMBER OF KILLINGS PER COUNTRY



NUMBER OF KILLINGS BY SECTOR

Mining & Extractives	43
Agribusiness	21
Water & Dams	17
Logging	13
Poaching	9
Fishing	2
Wind power	1
Other	7
No clear link to a sector	55



Access to justice

- Standing requirements or broad interpretation
- Material and intellectual support (direct and indirect)

Legal stock

- Existing legislation

Judicial receptiveness

- Progressive judges

Many developments.....

- ≠ areas of law
- Disciplinary to interdisciplinary
- Trends
- Global South

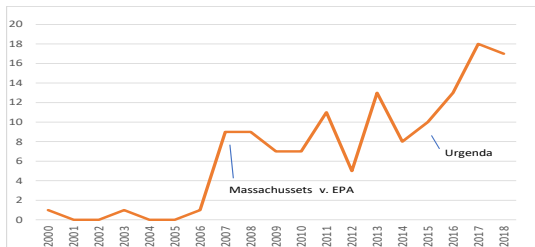
But still many gaps

Expand the analysis

- Explore a wider set of jurisdictions and actors
- Why do some turn while others don't turn to courts?

Assessing impact

- Bias towards successful cases
- Negative impacts
- Measuring impact
- Good use of resources?



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WILEY | WIREs
Climate Change

ADVANCED REVIEW

Climate change litigation: A review of research on courts and litigants in climate governance

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Studies of climate change litigation have proliferated over the past two decades, as lawsuits across the world increasingly bring policy debates about climate change mitigation and adaptation, as well as climate change-related loss and damage to the attention of courts. We systematically identify 130 articles on climate change litigation published in English in the law and social sciences between 2000 and 2018 to identify research trajectories. In addition to a budding interdisciplinarity in scholarly interest in climate change litigation we also document a growing understanding of the full spectrum of actors involved and implicated in climate lawsuits and the range of motivations and/or strategic imperatives underpinning their engagement with the law. Situating this within the broader academic literature on the topic we then highlight a number of cutting edge trends and opportunities for future research. Four emerging themes are explored in detail: the relationship between litigation and governance; how time and scale feature in climate litigation; the role of

2019, the year of protests

2020?

