Commitments – international and national

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

GRI/CCLW: 1,800 laws in 197 countries and EU as a block
“Flood the courts” with legal cases


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

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

1810

343

Climate Change Litigation Databases

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

<table>
<thead>
<tr>
<th></th>
<th>Total rulings</th>
<th>Pro climate rulings</th>
<th>% pro-climate</th>
</tr>
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<tbody>
<tr>
<td>US</td>
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<td>225</td>
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<tr>
<td>Non-US</td>
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<tr>
<td>Of which non OECD</td>
<td>55</td>
<td>34</td>
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</tr>
</tbody>
</table>
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

If at First You Don’t Succeed: Suing Corporations for Climate Change

Gertanjali Gargaly*, Joanna Senzer** 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 use 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 legal, economic and constitutional context, which generates new opportunities for judges to reframe 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 regulation in the longer term.

Keywords: private climate litigation, carbon majors, judicial interventions, accountability, climate risk disclosure.
Overcoming challenges / progressive outcomes

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..... But still many gaps

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

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?
2019, the year of protests

2020?