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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

LITIGATING FOR THE PLANET: THE RISE OF CLIMATE LAWSUITS AGAINST STATES AND CORPORATIONS

AUTHORED BY - DEVIKA B

Litigation is a critical tool that's available to a wide range of actors, including governments at all levels, nongovernmental organizations and community groups, individuals and the private sector to seek to advance climate action. Climate change litigation cases seeking to hold governments and corporations accountable for their actions are on the rise worldwide.

The total number of climate change court cases has more than doubled since 2017 and is growing worldwide. People are increasingly turning to courts to combat the climate crisis, holding governments and the private sector accountable and making litigation a key mechanism for securing climate action and promoting climate justice.

The total number of climate change cases has more than doubled since a first report on the issue, from 884 in 2017 to 2,180 in 2022. While most cases have been brought in the US, climate litigation is taking root all over the world, with about 17 per cent of cases now being reported in developing countries, including Small Island Developing States.

These legal actions were brought in 65 bodies worldwide: in international, regional, and national courts, tribunals, quasi-judicial bodies, and other adjudicatory bodies, including special procedures of the UN and arbitration tribunals.

One of the most rapidly growing forms of litigation is over "climate-washing" – when companies are accused of misrepresenting their progress towards environmental targets. As climate communications are increasingly scrutinised, there has been a rise in climate-washing litigation, often with positive outcomes for those bringing the cases. Of the 140 climate-washing cases

reviewed between 2016 and 2023, 77 have officially concluded, 54 of which ended with a ruling in favour of the claimant. Landmark cases brought forward by people from all walks of life have paved the way for others to come forward. They have also proven that citizen action can succeed in holding businesses and governments accountable for their actions.

Keywords: Litigation, climate change, climate crisis, climate communication, climate-washing.

I. INTRODUCTION

Turbulence and crises can escalate litigation, as evidenced by the many claims spawned by the 2008 financial crisis and the deluge of disputes brought about by the COVID-19 pandemic. Climate change is a global issue with widespread effects, and related litigation cases are rising around the world. Those who suffer or expect to suffer loss as a result of climate change are already pursuing judicial remedies and looking to recover damages or fund abatement efforts.¹ Others are using litigation as a tool to leverage more ambitious climate policy and actions or to oppose them. There is much happening throughout the world in the name of climate change litigation (CCL). To attain climate justice, it is important to decode the algorithm of power of the regulators and the corporates and to ensure that rule of law and democracy prevail and make people in power feel far more accountable. The battles against climate change are being fought at the international level; on the domestic front; on the streets and in the courts. Climate change litigation is one such effort. The global efforts towards furthering this cause have cast courts as important actors in aiding governance at multiple levels.²

Climate change litigation is variously defined in the literature and may include interventions before courts, tribunals and complaints bodies where climate change is central or peripheral to any given complaint. Impacts are also understood differently in the literature. Broadly, the impacts of climate change litigation encompass the aftermath or follow-on events, actions or changes flowing from a case or proceeding, which can include direct legal, regulatory, policy and behavioural changes, as

*Word Count of Text-6837, Footnotes-899

¹ Osofsky, Hari M. "The Continuing Importance of Climate Change Litigation." *Climate Law*, 2010.

² Kavuri S and Ramanathan A, "Climate Change Litigation: Chronicles from the Global South. A Comparative Study" (2022) 28 *Comparative Law Review* 169

well as indirect effects on the conduct or actions of government, corporate, civil society and public actors.³

Climate change has evolved from being a controversial issue to a widely recognized global threat over time. The inclusion of climate action as one of the 17 United Nations (UN) Sustainable Development Goals,

1

The conclusion of the 2015 Paris Agreement,

2

and the publication in 2018 of the Intergovernmental Panel on Climate Change (IPCC) Special Report on Global Warming of 1.5°C

3

have forged an agreement among the international community on the causes and risks of climate change. At the national level, a surge of laws codifying national and international responses to climate change has given rise to a growing number of lawsuits around the world on climate change-related matters.

4

The topic of climate litigation has attracted the attention of scholars from across social sciences fields, including most prominently the legal discipline and political science.

5

Legal scholarship on climate litigation covers a broad scope

Climate change has evolved from being a controversial issue to a widely recognized global threat over time. The inclusion of climate action as one of the 17 United Nations (UN) Sustainable Development Goals, the conclusion of the 2015 Paris Agreement, and the publication in 2018 of the Intergovernmental Panel on Climate Change (IPCC) Special Report on Global Warming of 1.5°C have forged an agreement among the international community on the causes and risks of climate change. At the national level, a surge of laws codifying national and international responses to climate change has given rise to a growing number of lawsuits around the world on

³ Peel J, "Impact Lit Review report_CIFF_Final_27052022"

climate change-related matters. The topic of climate litigation has attracted the attention of scholars from across social sciences fields, including most prominently the legal discipline and political science. Legal scholarship on climate litigation covers a broad scope of issues, ranging from perspectives on a single case analysis to regulatory aspects of climate litigation, and covering one or multiple jurisdictions.⁴

Courts are playing an increasingly visible role in policy debates about climate change mitigation and adaptation, as well as climate change-related loss and damage. Lawsuits addressing the causes and consequences of climate change—such as the expansion of airports, the reliance on coal-powered energy and the climate-related erosion of the habitats of endangered species—are increasingly apparent in national courts, and scholars even see a potential role for international tribunals to address climate harms.

Within the field, landmark cases have galvanized the movement and served as proof of the potential material success that climate litigation can deliver, though to be sure, these recent successes are more exceptions than the norm. Perhaps most famous is the 2015 case *Urgenda v. The Netherlands*, which produced the first-ever successful challenge to a government's climate policies and inaction. The decision compelled the Dutch government to adopt more ambitious climate policies in order to protect and uphold its human rights commitments. *Urgenda's* achievement has even inspired its own subset of climate cases. Dubbed "government framework cases" by legal scholars, these cases mimic the strategy of Urgenda to compel a state government to increase its overall mitigation efforts. Other influential cases that have shaped the climate litigation movement include *Leghari v. Federation of Pakistan*, another 2015 case and the first from the Global South to receive widespread attention, and the historic 2021 *Milieudefensie et. al v Royal Dutch Shell PLC*, which marked the first time a corporation was held liable for its contributions to climate change. These landmark cases are undoubtedly important, not only for

⁴ Mitkidis K and Valkanou T, "Climate Change Litigation: Trends, Policy Implications and the Way Forward" (Cambridge University Press, March 1, 2020) https://www.researchgate.net/publication/339751528_Climate_Change_Litigation_Trends_Policy_Implications_and_the_Way_Forward accessed May 26, 2025

engineering novel media campaigns or employing creative legal interpretations but also in their ability to set a precedent and generate momentum for future litigation.⁵

The current rise in climate change litigation is taking place against a backdrop of increasing societal awareness and scientific knowledge of climate change, changing requirements for states and corporations triggered by the proliferation of national and international agreements and commitments on climate change, and an evolution in the fields of energy production, transportation and heavy industry, to name a few. To reach the climate change goals set out in the Paris Agreement and pivot away from fossil fuel dependence, policy advisors are outlining the need for dramatic business model transformations in different economic sectors as well as profound changes in everyday life that impact core and essential sectors of the world economy.⁶ Since the adoption of the Paris Agreement, climate litigation has gained pace, increased in volume and expanded in scope and geographical coverage.

Climate litigation is commonly associated with ‘pro-regulatory’ (i.e. climate-aligned) cases aimed at advancing climate action and ‘anti-regulatory’ (i.e. non-climate-aligned) cases seeking to delay or obstruct climate action. We also distinguish ‘just transition litigation’: cases that aim to strike a balance between advancing the transition to a low-carbon economy with protecting the rights of affected communities, highlighting the complex interests and needs involved in the transition process.⁷

As government efforts to address climate change flounder in many countries and at the international level, environmental advocates have increasingly turned to courts to fill the void in climate change governance. Litigation seeking climate change mitigation or adaptation has been initiated in a number of jurisdictions and encompasses a broad range of legal forms.⁸ Action has been taken

⁵ Warren M, “The Narrative Purpose of Climate Change Litigation” [2025] Lawfare

⁶ Golnaraghi M, “Climate Change Litigation – Insights into the Evolving Global Landscape” https://www.genevaassociation.org/sites/default/files/climate_litigation_04-07-2021.pdf accessed May 26, 2025

⁷ Setzer J and Higham C (2023) *Global Trends in Climate Change Litigation: 2023 Snapshot*. London: Grantham Research Institute on Climate Change and the Environment and Centre for Climate Change Economics and Policy, London School of Economics and Political Science

⁸ Preston B, “Climate Change Litigation” 26 *Environmental & Planning Law Journal* 169

both against corporations emitting large amounts of greenhouse gases (GHG) to the atmosphere, and against governments for their failure to factor climate change into planning and development decision-making adequately. Notwithstanding this diversity, there are a number of recurring issues or challenges that confront plaintiffs mounting climate-based claims in the courts. These issues are a reflection of the complexities of the problem of climate change, and the challenges it poses.⁹

II. THE KEY PLAYERS IN CLIMATE CHANGE LITIGATION

Climate change is a public health emergency. It is the single biggest threat to global health, peace, and security, a crisis multiplier, and a significant driver of health inequalities. It also raises profound issues of human rights and dignity. The poor and vulnerable, who have contributed least to climate change, suffer the worst consequences of actions largely committed by rich and powerful nations. These actions directly contribute to unprecedented biodiversity loss, mass extinction of species, and disruption of ecosystems which are fundamental to our very lives and the health of our planet. At this critical juncture, when the intractable problems have fused into one common concern for the whole world, failure to act is unconscionably irresponsible.¹⁰

The term ‘climate change litigation’ is shorthand for a range of different proceedings connected to climate change matters. It can be directed at public and private companies, federal governments, city administrations and insurance companies. Although climate change may not always be the central issue in environmental litigation, even when it arises peripherally, judges are increasingly being asked to deal with arguments and facts related to climate change and climate science that were previously not presented before courts.

Climate litigation in general has a diverse profile in terms of subject matter, covering a broad range of actions that arise from climate-related issues. Claimants include individuals, environmental organizations, local and state governments, regulators, businesses, young people and future generations, while defendants include governments, firms, financial institutions, industry groups

⁹ Peel J, “Issues in Climate Change Litigation” (*Lexion Verlag*, May 15, 2012) https://www.researchgate.net/publication/256019523_Issues_in_Climate_Change_Litigation accessed May 26, 2025

¹⁰ <https://www.fph.org.uk/media/iqkftmug/climate-litigation-report.pdf> accessed May 26, 2025

and individuals. Objectives and legal avenues also vary considerably.¹¹ These actors include environmental non-governmental organizations (NGOs), regulatory agencies, local and Indigenous communities, climate change activists, environmental cause lawyers located inside and outside NGOs, and funders. This broad range of actors reflects the growing complexity, polycentricity, and multi-level nature of the climate change litigation space, and climate change governance more broadly.¹²

Climate change litigation, an emerging trend in recent years, stands as a pioneering solution to reshape the dynamics of this battle. An escalating trend shows individuals resorting to legal action to address the climate crisis. Both private and public sector entities are facing escalating challenges and greater accountability. Young people, women's organizations, local communities, Indigenous Peoples, and various other groups are assuming increasingly influential roles in initiating cases and propelling climate change governance reform in numerous countries worldwide. The legal foundations for such cases are expanding. The Human Rights Council, as well as the General Assembly of the United Nations, have officially acknowledged the right to an environment that is unpolluted, conducive to well-being, and sustainable. We are witnessing the emergence of fresh claims that revolve around the breach of laws pertaining to NetZero targets, assessments of environmental impacts, rising standards in advertising, and commitments outlined in the Paris Agreement. Climate change litigation has established important precedents for climate action on a global scale, transcending the borders of their original jurisdictions and inspiring and propelling similar efforts in other nations.¹³

Climate change litigation has two broad categories:

... Public law actions against governments and public authorities, raising human rights, constitutional and administrative law arguments

... Private law actions based in areas of law such as tort, fraud, planning and company law.¹⁴

¹¹ Sato M and others, "Impacts of Climate Litigation on Firm Value" (2024) 7 Nature Sustainability 1461

¹² Lin J and Peel J, "Actors in Global South Climate Change Litigation Mobilization Efforts" (*OUP Academic*, May 3, 2024) <https://academic.oup.com/book/56370/chapter-abstract/448160400?redirectedFrom=fulltext> accessed May 26, 2025

¹³ Raghupathi, W.; Molitor, D.; Raghupathi, V.; Saharia, A. Identifying Key Issues in Climate Change Litigation: A Machine Learning Text Analytic Approach. *Sustainability* **2023**, *15*, 16530. <https://doi.org/10.3390/su152316530>

¹⁴ (*Climate Change Litigation: A new class of action*) <https://www.actu-environnement.com/media/pdf/news-33084-leadership.pdf> accessed 26 May 2025

The failure by national and international policymakers has required citizens and non-governmental organisations (NGOs) to react in order to tackle climate change. The ‘judicial arena’ is taking the lead in the process of tackling climate change, thanks to suits in which citizens and NGOs challenge local authorities and national governments’ actions or inactions. In this way, climate change litigation can be considered as ‘an important component of the governance framework that has emerged to regulate how states respond to climate change at the global, regional and local levels’, exerting pressure ‘on the executive and legislative branches of government to act on the climate change issues. At the same time, climate change-related cases have also been filed against private actors, mostly fossil fuel and cement companies, also called ‘Carbon Majors’, which are major greenhouse gas emitters.¹⁵

As research on climate change litigation has become more interdisciplinary, the range of actors receiving analytical attention has also evolved. Early research focused on individual and NGO litigants taking cases against government and corporations as a way to take action to address GHG emissions. Scholars later began to pay attention to how industry actors and government officials have also used litigation to fight tighter regulatory controls. Socio-legal scholarship and social movement research has contributed to a growing awareness of the range of litigants and other actors associated with climate change litigation: from climate activists in criminal trials, to the fossil fuel divestment movement, subnational governments, climate change denial groups, judges, and legal scholars. Not surprisingly, major carbon and oil producers are responding as plaintiffs in private climate change-related lawsuits.

Scholars identify the potential effectiveness of targeting a relatively small group of corporations who are responsible for a large percentage of emissions. This trend was supported by Richard Heede's (2014) work, which was the first to map and quantify the cumulative emissions of the 90 largest carbon producers (the “Carbon Majors”) from 1854 to 2010. Surprisingly absent from courts in climate related cases and from the scholarship is the transport sector (e.g., aviation), international shipping, car manufacturers) and the meat industry (The special report by the UN's

¹⁵ (Climate Change Litigation)
https://www.biiicl.org/documents/88_climate_change_litigation_comparative_and_international_report.pdf accessed 26 May 2025

Intergovernmental Panel on Climate Change stresses the urgency of strong action across all transport modes (IPCC, 2018).¹⁶

Given this scientific background, the urgency of having to dramatically reduce greenhouse gas emissions, and a perceived lack of sufficient climate action and ambition around the globe, NGOs and individuals are increasingly turning to the courts to sue States, governmental authorities, and private entities for failing to take appropriate climate action and hold them accountable for their past actions, for failing to comply with existing climate obligations and regulations, and for their current lack of ambition through climate-related litigation. Such court actions may also be brought against central banks and supervisors. For example, in April 2021, the first climate-related litigation against a central bank was launched: The NGO ClientEarth initiated proceedings against the Banque Nationale de Belgique (NBB) before the Tribunal of First Instance in Brussels, alleging that the NBB's purchases of corporate bonds under the Corporate Sector Purchase Programme (CSPP), as well as the European Central Bank's (ECB) decision on the implementation of the CSPP violate the European Union (EU) treaties and fundamental rights, as – according to the plaintiff – neither the ECB nor the NBB took environmental requirements into account (ClientEarth v NBB).¹⁷

Citizens and non-governmental organizations are suing to hold their governments accountable for climate-related commitments. In many instances, the arguments made to challenge government actions or inaction include reference to constitutional and statutory provisions not specific to climate change. In those cases, references to international climate agreements, which embody scientific objectives as well as political ones, often buttress the claim. Litigants are making arguments for climate action based on the public trust doctrine, which assigns the state responsibility for the integrity of a nation's public trust resources for future generations. Such claims raise questions of individuals' fundamental rights and intergenerational equity, as well as

¹⁶ Setzer J and Vanhala LC, "Climate Change Litigation: A Review of Research on Courts and Litigants in Climate Governance" (2019) 10 WIREs Climate Change

¹⁷ (NGFS) https://www.ngfs.net/system/files/import/ngfs/medias/documents/climate_related_litigation.pdf accessed 27 May 2025

concerns about the balance of powers among the judicial, legislative and executive branches or functions of governments.¹⁸

At the heart of climate litigation are the key players who initiate legal action to address climate change. These primary participants include governments, fossil fuel companies, non-governmental organizations (NGOs), and public interest groups. They all seek to hold one another accountable for their contributions to climate change and its impacts.¹⁹

The other group of cases that may have far-reaching impacts on business involves legal challenges to governments, which seek to challenge either a lack of ambition or a lack of implementation for climate goals. Over 100 such cases have been filed around the world, which often centre on climate commitments or targets, building on the emerging consensus around global temperature limits represented by the Paris Agreement and reinforced by the publication in 2018 by the Intergovernmental Panel on Climate Change (IPCC) of the Special Report on 1.5 Degrees, as well as the growing popularity of the concept of 'net-zero'. Many cases build on the approach taken in the landmark case of Urgenda Foundation v State of the Netherlands, which was the first piece of litigation to successfully challenge the adequacy of a national government's overall approach to reducing emissions. Whether successful or not, such cases may often result in increased government ambition and, correspondingly, increased regulation focused on private sector emissions.²⁰

If we explore the roles of these key players in detail:²¹

- Governments and Climate Change Policies

Governments are responsible for enacting climate change policies. This includes establishing emissions targets, formulating regulations, and offering incentives to

¹⁸ University UNEP Sabin Center for Climate Change Law at Columbia, "The Status of Climate Change Litigation: A Global Review"

¹⁹ esgthereport, "Climate Litigation: A Look at 2025 and Beyond - ESG" (*ESG | The Report*, December 29, 2024) <https://esgthereport.com/climate-litigation-a-look-at-2025-and-beyond/#bcda> accessed May 26, 2025

²⁰ Aristova E and Lim J (eds), 'Amendment of the Report on Climate Change' (*Faculty of Law*, 1 July 2024) <https://www.law.ox.ac.uk/content/news/amendment-report-climate-change-litigation> accessed 28 May 2025

²¹ Ibid.

businesses for decreasing their emissions. However, governments can also be held accountable for not taking sufficient action to address climate change. These include not establishing emissions targets or not implementing existing regulations.

- Fossil Fuel Companies and Their Liability

Fossil fuel companies are increasingly being held accountable for their involvement in climate change. In the United States, for example, companies have sought to have climate litigation cases heard at the federal level. However, judges have repeatedly ruled against them.

- NGOs and Public Interest Litigation

Non-governmental organizations (NGOs) and public interest groups play a crucial role in driving climate litigation cases and raising awareness. They offer legal support, funding, and advocacy for plaintiffs, as well as engage in public campaigns, media outreach, and educational materials to increase public knowledge of climate change.

2.1 REMEDIES FROM CLIMATE CHANGE LITIGATION

Reflecting the variety in plaintiffs, defendants, and legal theories related to climate change, there is considerable variety in the remedies sought. Many are conventional remedies, including: damages for climate-related harms that vary substantially in the amount sought; various forms of injunctive relief; declaratory judgments on whether an action or inaction is legal; and requests for vacatur of administrative and/or regulatory action(s). Some plaintiffs are seeking unconventional remedies, which have at times been sweeping in their scale and scope, directed at making changes to foundational elements of energy and transportation policy. For example, in Montana's youth climate case, plaintiffs requested equitable relief, including enjoining the state from carrying out the State Energy Policy, an accounting of Montana's GHG emissions, and a court order requiring the state "to develop a remedial plan or policies to effectuate reductions of greenhouse gas emissions in Montana consistent with the best available science."

On the monetary side, some predict that damages calculations will become increasingly complex given the international character of climate change. Injunctive relief examples vary from requests to order the government to prepare a nationwide emissions reduction plan (*Juliana* and *Urgenda*),

to calls to halt actions until environmental assessments that account for climate impacts can be conducted, as well as requests for the protection of certain species.²²

III. GLOBAL HOTSPOTS OF CLIMATE CHANGE LITIGATION

Countries most affected by climate change—as well as citizens and non-profit groups—are increasingly turning to courts to compel governments and fossil fuel producers to address the climate crisis.²³

Cases involving climate change have been litigated in the courts for some time, but new directions and trends have started to emerge. While the majority of climate litigation has occurred in the United States (US) and other developed countries, cases in the Global South are growing both in terms of quantity and in the quality of their regulatory outcomes. Over the past years, cases of strategic climate litigation have been initiated in Brazil, Colombia, India, Indonesia, Pakistan, the Philippines, and South Africa. These cases push forward climate jurisprudence in the chosen jurisdictions, and perhaps even beyond to other Global South countries. Despite resource and governance constraints, some strategic cases from the Global South have achieved bold outcomes.²⁴

A little under 3,000 climate litigation cases seeking to hold governments and corporations accountable for their actions have been filed around the world since 1986. The past decade has seen an unprecedented surge in such cases and dozens of landmark victories around the world. The Global Climate Change Litigation database is the most comprehensive database on the matter. Set up in 2011, it is regularly updated by the Sabin Center for Climate Change Law, an affiliated center of the Columbia Climate School at Columbia University.

²² “Overview of Climate Litigation” (*Climate Judiciary Project*) <https://cjp.eli.org/curriculum/overview-climate-litigation> accessed May 28, 2025

²³ “The Caribbean Island Nation at the Forefront of the Climate Litigation Push” (*UNEP*) <https://www.unep.org/news-and-stories/video/caribbean-island-nation-forefront-climate-litigation-push> accessed May 28, 2025

²⁴ Setzer J and Benjamin L, “Climate Litigation in the Global South: Constraints and Innovations” (*Cambridge University Press*, December 12, 2019) https://www.researchgate.net/publication/338346001_Climate_Litigation_in_the_Global_South_Constraints_and_Innovations accessed May 28, 2025

As of September 17, 2024, the database contained 2,796 cases – 1,850 filed in the US and 946 in the rest of the world. 70% of these cases have been filed in the past decade alone (2015-2024), following the adoption of the landmark Paris Agreement. It also includes cases brought before international or regional courts or tribunals. At present, the database features cases from over 55 countries – with the US, the UK, Brazil, and Germany leading the way. Little over 200 cases have been recorded in the Global South, with Brazil accounting for 88 of them.²⁵

The United States remains the country with the highest number of documented climate cases, with 1,745 cases in total, and 129 new cases filed in 2023. After the US, the countries with the highest number of recorded cases filed in 2023 were the UK with 24 cases, Brazil with 10 cases, and Germany with 7 cases. These three countries also have high aggregate numbers of recorded cases, with the UK currently at 139 cases, Brazil at 82 cases, and Germany at 60. Climate cases were filed in 2023 for the first time in Panama and Portugal. Older cases filed in Hungary and Namibia were identified for the first time, bringing the total number of countries in which climate cases have been recorded to 55.

Cases in the Global South are increasing and gaining more attention. Currently, more than 200 climate cases from Global South countries are recorded in the databases, comprising around 8% of all cases. A landmark judgment by the Supreme Court of India in *M.K. Ranjitsinh and Others v. Union of India*²⁶ established a new constitutional right to be free from the adverse effects of climate change.²⁷

IV. WHAT CCL MEANS FOR COMPANIES AND CORPORATIONS

With most of the “greenwashing” cases with claimants winning 70% of 'climate-washing' cases, companies are faced with growing financial and legal risks for misleading sustainability claims and inadequate climate risk management.

²⁵ Igini M, “Explainer: Climate Litigation – Trends and Impact” *Earth.Org* (September 20, 2024) <https://earth.org/explainer-climate-litigation-trends-and-impact/> accessed May 28, 2025

²⁶ *M.K. Ranjitsinh and Others v. Union of India*, 2024 INSC 280

²⁷ Setzer J and Higham C (2024), *Global Trends in Climate Change Litigation: 2024 Snapshot*. London: Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science.

Implications from this analysis suggest a shifting landscape in corporate responsibility, legal accountability, and financial risk management concerning climate-related issues. Specifically:

Increased accountability for misleading claims — With a success rate of 70% for claimants in climate-washing litigation cases, there is a growing trend towards holding companies accountable for misleading claims regarding climate neutrality and sustainability. This high success rate could serve as a deterrent for many companies.

Financial and legal risks increase — The spike in climate-washing cases, along with other climate-related litigation, poses significant financial and legal risks for corporations. This, in turn, may prompt businesses to invest more in genuine sustainable practices and thorough due diligence to avoid such litigation.

Growing scrutiny indicates a likely spike in regulation — The increased attention from financial regulators and reinsurers on climate litigation outcomes suggests that the impact of these cases extends beyond individual companies and into the broader financial system. This scrutiny may lead to stricter regulations, changes in risk assessment models, and potentially higher insurance premiums or reduced coverage for companies vulnerable to climate-related litigation.²⁸

Climate-washing lawsuits are particularly potent because they expose and disrupt the narratives corporations use to greenwash and bolster their reputations while continuing to contribute to the climate crisis. Recent cases have targeted sectors ranging from finance to consumer goods, and the scope is expanding. Courts have ruled against companies for overstating their “net zero” pledges, misleading consumers about the environmental impact of products, and greenwashing their financial products.

As governments introduce stricter regulations on corporate sustainability claims and public awareness of greenwashing grows, this area of litigation is poised for significant expansion.

²⁸ Greggworth, “Majority of Climate-Washing Litigation Succeeds in Producing Positive Outcomes but Prompts Companies to Proceed Cautiously” (Thomson Reuters Institute, July 19, 2024) <https://www.thomsonreuters.com/en-us/posts/esg/climate-washing-litigation/> accessed May 27, 2025

Beyond penalizing false claims, these lawsuits send a clear message: corporations must back their promises with real, measurable action.²⁹

While ensuring compliance will require more effort and care in communication, compliance with legislation will also provide guidance, confidence to ‘be safe’ and enable making informed decisions. Real contributions to a green transition will have it easier in the market and be more recognised as such. All of which is good news for both consumers and for the increasing number of companies that are on their honest journey towards improved sustainability as needed to meet global sustainability goals.³⁰

V. LANDMARK INTERNATIONAL CASES

5.1 Luciano Lliuya v. RWE AG³¹

In November 2015, Saúl Luciano Lliuya, a Peruvian farmer who lives in Huaraz, Peru, filed claims for declaratory judgment and damages in the District Court Essen, Germany against RWE, Germany’s largest electricity producer. Luciano Lliuya’s suit, supported by NGO Germanwatch, alleged that RWE, having knowingly contributed to climate change by emitting substantial volumes of greenhouse gases (GHGs), bore some measure of responsibility for the melting of mountain glaciers near his town of Huaraz. Especially, as the melting gave rise to an acute threat: Palcacocha, a glacial lake located above Huaraz, has experienced substantial volumetric increase since 1975, which has dramatically accelerated from 2003 onwards. Luciano Lliuya presented several legal theories in support of his claim, including one that characterized RWE's emissions as a nuisance due to which plaintiff had incurred compensable costs to mitigate. Acknowledging that RWE was a contributor to the emissions responsible for climate change and thus for the lake's growth, Luciano Lliuya asked the court to order RWE to reimburse him for a portion of the costs that he and the Huaraz authorities are expected to incur from setting up flood protections. The

²⁹ Merner LD, “Looking Ahead to Climate Litigation in 2025: Progress, Challenges, and Opportunities” (*The Equation*, December 16, 2024) <https://blog.ucs.org/delta-merner/looking-ahead-to-climate-litigation-in-2025-progress-challenges-and-opportunities/> accessed May 27, 2025

³⁰ “‘Climate Washing’ Litigation: How to Prepare for Global Action against Greenwashing” *SLR Consulting* (October 6, 2023) <https://www.slrconsulting.com/apac/insights/climate-washing-litigation-how-to-prepare-for-global-action-against-greenwashing/> accessed May 27, 2025

³¹ 5 U 15/17 OLG Hamm / Case No. 2 O 285/15 Essen Regional Court

share calculated amounted to 0.47% of the total cost - the same percentage as RWE's estimated contribution to global industrial greenhouse gas emissions since the beginning of industrialization (from 1751 onwards).

The court found that there was no concrete danger to the plaintiff's property, which ultimately led to the dismissal of the claim. However, the ruling established important legal principles for climate litigation. The court held that major greenhouse gas emitters can, in principle, be held accountable for the impacts of their emissions under German civil law.

Specifically, the court found that the plaintiff might potentially have a claim under Section 1004 of the German Civil Code (BGB). If an impairment of property appears imminent, a CO₂ emitter may be obligated to take preventive action. Should the emitter refuse to do so definitively, liability for future costs could be established in advance—based on the emitter's proportional contribution to global emissions.³²

5.2 Urgenda Foundation v. The State of the Netherlands³³

The judgment in *State of the Netherlands v. Urgenda Foundation* marks one of the first successful challenges to climate change policy based on a human rights treaty. In this case, the Dutch Supreme Court upheld the lower court's opinion that the Netherlands has a positive obligation under the European Convention on Human Rights (ECHR) to take reasonable and suitable measures for the prevention of climate change.³⁴

Urgenda Foundation and a group of 900 Dutch citizens sued the Dutch government to compel the state to reduce greenhouse gas emissions – primarily CO₂ – more aggressively. The Hague District Court determined the Dutch government must reduce greenhouse gas emissions by at least 25

³² “Luciano Lliuya v. RWE AG” (*Climate Change Litigation*, December 30, 2016) <https://climatecasechart.com/non-us-case/liiuya-v-rwe-ag/> accessed May 28, 2025

³³ [2015] HAZA C/09/00456689 (24 June 2015)

³⁴ Meguro M. *State of the Netherlands v. Urgenda Foundation*. *American Journal of International Law*. 2020;114(4):729-735. doi:10.1017/ajil.2020.52

percent (compared to 1990) by 2020 to fulfill its duty of care to protect Dutch citizens against the imminent danger caused by climate change.³⁵

The Urgenda Climate Case against the Dutch Government was the first in the world in which citizens established that their government has a legal duty to prevent dangerous climate change. On 24 June 2015, the District Court of The Hague ruled the government must cut its greenhouse gas emissions by at least 25% by the end of 2020 (compared to 1990 levels). The ruling required the government to immediately take more effective action on climate change. On 20 December 2019, the Dutch Supreme Court, the highest court in the Netherlands, upheld the previous decisions in the Urgenda Climate Case, finding that the Dutch government has obligations to urgently and significantly reduce emissions in line with its human rights obligations.³⁶

5.3 Milieudefensie et al. v. Royal Dutch Shell plc.³⁷

In April 2019, seven environmental associations and NGOs, led by Milieudefensie (Friends of the Earth Netherlands), together with 17,319 individual co-claimants brought a case before the Court alleging that Shell's contributions to climate change violate its duty of care under Dutch law and human rights law. The central question before the Court was whether Shell should be required to make further changes to the Shell Group's existing corporate policy to reduce the CO2 emissions for the entire group's energy portfolio to achieve lower emission levels by the end of 2030, relative to 2019 levels.³⁸

In May 2021, The Hague District Court (the 'District Court') issued a historic decision ordering Shell, the parent company of the Shell group, to reduce its net carbon dioxide ('CO2') emissions by 45% by 2030 (compared to 2019 levels) through the Shell group's corporate policies. This reduction order relates to the Shell group's entire energy portfolio and to the aggregate volume of

³⁵ "Urgenda Foundation v. The State of the Netherlands" (*ELAW: Environmental Law Alliance Worldwide*, June 16, 2016) <https://elaw.org/resource/urgenda-foundation-v-the-state-of-the-netherlands> accessed May 28, 2025

³⁶ "Climate Case" (*Urgenda*, March 5, 2018) <https://www.urgenda.nl/en/themas/climate-case/> accessed May 28, 2025

³⁷ Case No. C/09/571932 / HA ZA 19-379, 26 May 2021

³⁸ "Dutch Court of Appeal Upholds Appeal on Landmark Climate Litigation Case against Shell" (*Herbert Smith Freehills | Global law firm*) <https://www.herbertsmithfreehills.com/insights/2024-11/dutch-court-of-appeal-upholds-appeal-on-landmark-climate-litigation-case-against-shell> accessed May 28, 2025

all its emissions, meaning not only the emissions from the Shell group's own activities would be taken into account, but those of its entire supply chain, including its business partners and end users. The District Court ruled that Shell has an obligation of result as regards the group's activities, and a significant best-efforts obligation as regards third parties' emissions, but left it up to the company to decide how to comply with its reduction obligation.³⁹

5.4 Neubauer, et al. v. Germany⁴⁰

In February 2020, a group of German youth filed a legal challenge to Germany's Federal Climate Protection Act (“Bundesklimaschutzgesetz” or “KSG”) in the Federal Constitutional Court, arguing that the KSG's target of reducing GHGs by 55% until 2030 from 1990 levels was insufficient. The complainants alleged that the KSG therefore violated their human rights as protected by the Basic Law, Germany's constitution.

The complainants alleged that the KSG's 2030 target did not take into account Germany's and the EU's obligation under the Paris Agreement to limit global temperature rise to "well below 2 degrees Celsius." The complainants argued that in order to "do its part" to achieve the Paris Agreement targets, Germany would need to reduce GHGs by 70% from 1990 levels by 2030. Their claims mainly arose out of alleged violations of the fundamental right to a future consistent with human dignity enshrined in Article 1 (1), and the fundamental right to life and physical integrity enshrined in Article 2 (2) of the Basic Law, both in conjunction with Article 20a of the Basic Law, which binds the political process to protect the natural foundations of life in responsibility for future generations. Complainants argued that by requiring insufficient short and medium term GHG reductions and allowing for the transfer of emission allocations between Germany and other EU Member States, despite the inadequacy of the overall EU emissions reduction target, the KSG allowed for climate impacts that violate their fundamental rights.⁴¹

³⁹ Menendez U, “Landmark Climate Change Decision in Milieudéfense et al v Royal Dutch Shell PLC and Its Aftermath” , <https://www.uria.com/en/publicaciones/8984-landmark-climate-change-decision-in-milieudéfense-et-al-v-royal-dutch-shell-plc#a> accessed May 28, 2025

⁴⁰Case No. BvR 2656/18/1, BvR 78/20/1, BvR 96/20/1, BvR 288/20

⁴¹ “Case Law Database” (University College Cork) <https://www.ucc.ie/en/youthclimatejustice/caselawdatabase/neubauer-et-al-v-germany-klimashutz.html> accessed May 29, 2025

In its judgment delivered on April 29, 2021, the Constitutional Court unanimously declared the Federal Climate Protection Act partly unconstitutional because it does not sufficiently protect people against future infringements and limitations of freedom rights in the wake of gradually intensifying climate change. By recasting climate protection in constitutional terms, as it did, and by relying on scientific assessments and projections of, among others, the Intergovernmental Panel on Climate Change (IPCC), the Court broadly held there is an obligation on the State to revisit the intertemporal distribution effects of its climate laws and to equitably distribute allowable emissions over time and generations. In doing so, the Court ordered the legislature to correct and to significantly tighten up the existing climate law provisions, to increase the ambition of these provisions, and to strengthen future mitigation pathways, notably by introducing specific provisions on how the reduction targets for CO₂ emissions will be adjusted beyond 2030.⁴²

5.5 Lungowe v Vedanta⁴³

The claimants in this action are 1,826 citizens of Zambia from four different communities in the Chingola District. The claimants allege harms to their health and ability to farm due to pollution of their sole water source from activities at the Nchanga Copper Mine. The defendants are Konkola Copper Mines (KCM), owner and operator of the mine, and Vedanta Resources PLC (Vedanta), ultimate UK parent company of KCM. The claims arise under common law negligence and breach of statutory duty, as against KCM because of their operation of the mine, and as against Vedanta because of their control of KCM's compliance with health, safety, and environmental regulations. This case is significant for UK parent companies with subsidiaries operating in other parts of the world. It is now possible for such companies to face liability in the UK for environmental harms caused by their foreign subsidiaries. Crucially, parent companies can be held liable for assuming responsibility in respect of the activities of foreign subsidiaries. The case establishes that parent company liability is not a novel extension of the law of negligence. A parent company may be held to have assumed responsibility for activities of a foreign subsidiary where: a defective policy or inadequate guidance issued by the parent company results in harm to third parties; where a parent company is responsible for the training supervision and enforcement of policies relating to a

⁴² Kotzé LJ, "Neubauer et al. versus Germany: Planetary Climate Litigation for the Anthropocene?" 22 German Law Journal 1423

⁴³ UKSC/2017/0185

subsidiary's activities; and where a parent company holds itself out as exercising supervision and control of a subsidiary's activities but fails to do so.⁴⁴

5.6 Greenpeace UK and Uplift v. Secretary of State for Energy Security and Net Zero and the North Sea Transition Authority⁴⁵

Following the UK government's approval of the Jackdaw (2022) and Rosebank (2023) offshore fossil fuel developments, environmental NGOs Uplift and Greenpeace brought judicial review proceedings in the Court of Session in Edinburgh in December 2023. The claimants challenged the legality of the decisions, arguing that the approvals failed to consider the full climate impacts of the projects, in particular the downstream (Scope 3) emissions resulting from the eventual combustion of extracted oil and gas.

Outcome:

- Approval for both the Rosebank and Jackdaw fields quashed.
- Government must reassess the projects under new environmental guidance accounting for downstream emissions.
- Development cannot proceed without new consents based on a full environmental impact assessment.
- The decision sets a precedent for integrating climate impacts into all future UK fossil fuel project assessments.⁴⁶

5.7 Juliana v. United States⁴⁷

In 2015, 21 young Americans filed their constitutional climate lawsuit, *Juliana v. United States*, against the U.S. government. Their complaint asserts that, through the government's affirmative actions that cause climate change, it has violated the youngest generation's constitutional rights to life, liberty, and property, as well as failed to protect essential public trust resources.

⁴⁴ "Vedanta Resources PLC and Another v. Lungowe and Others" (*ESCR-Net*, August 22, 2019) <https://www.escr-net.org/caselaw/2019/vedanta-resources-plc-and-another-v-lungowe-and-others/> accessed May 29, 2025

⁴⁵[2023] EWHC 2608

⁴⁶ "Greenpeace UK and Uplift v. Secretary of State for Energy Security and Net Zero and the North Sea Transition Authority" (*Climate Change Litigation*, May 22, 2025) <https://climatecasechart.com/non-us-case/greenpeace-uk-and-uplift-v-secretary-of-state-for-energy-security-and-net-zero-and-the-north-sea-transition-authority/> accessed May 29, 2025

⁴⁷ *The Juliana v. United States*, 10 U.S. 6 Cranch 327 327 (1810)

Described as the “case of the century” and the “biggest case on the planet,” *Juliana v. United States* (August 12, 2015) was a leading U.S. constitutional climate case. The historic case ended on March 24, 2025, when the U.S. Supreme Court opted not to review a lower court's decision to dismiss the case on procedural grounds. *Juliana v. United States* represents a bold and innovative approach to the effort to preserve a livable climate. Rather than attempting to address the government's role in causing and accelerating the collapse of the climate system through compartmentalized statutory environmental laws, such as the Clean Air Act and the Clean Water Act or civil tort claims, *Juliana* invoked the judiciary's constitutional obligation to hold the executive branch of the government accountable when its actions destroy natural resources essential to life.⁴⁸

VI. IMPACT OF CLIMATE CHANGE LITIGATION

Courtrooms around the world have become a key battleground in the public debate over climate change, and recent verdicts have sent an unequivocal message to the world – that climate action is a legal duty. In 2022, the Intergovernmental Panel on Climate Change (IPCC) – the most authoritative scientific body on climate change – recognized that climate litigation “has influenced the outcome and ambition of climate governance,” adding that its impact is “promising.”

In recent years, there has been a notable surge in the prevalence of climate change litigation with strategic intent. These cases are strategically designed to push for more ambitious climate-related objectives. They seek to impact policies, uphold standards, question the allocation of public resources, and scrutinize the reliability and precision of disclosures related to climate matters. Through these legal actions, stakeholders aim to drive systemic change, compel governments and institutions to uphold higher environmental standards, and ensure transparency and accountability in climate-related decision-making processes.

Climate litigation has successfully challenged governments’ climate targets and agendas as well as their authorization of high-emitting projects, setting important precedents for climate action and

⁴⁸ Adams-Schoen S, “Juliana v. United States” (*Oregon Encyclopedia*) <https://www.oregonencyclopedia.org/articles/juliana-v-united-states/> accessed May 29, 2025

emissions reduction. The landmark “Urgenda” case in 2019, which saw the Netherlands’ top court ordering the Dutch government to cut greenhouse gas emissions by 25% by the end of 2020 compared with 1990 levels, made global headlines and has had ripple effects around the world.⁴⁹

Litigation is an important tool for advancing climate action and accountability. A report last year by the Intergovernmental Panel on Climate Change considered climate litigation for the first time, finding some cases influenced the outcome and ambition of climate governance.

The latest report spells out ways individuals, communities and groups are using litigation to drive action. This includes efforts to:

- enforce existing climate laws
- ensure climate issues are widely integrated into planning and economic decision-making
- force governments and companies to raise the ambition of their emissions reduction commitments
- establish a link between climate change and human rights violations, and
- seek compensation for climate harms.⁵⁰

VII. CONCLUSION

At the heart of much of the recent climate change litigation is a call for climate justice. Climate change affects everyone, but it disproportionately affects those who have contributed the least to climate change and those least well placed to respond to the impacts of climate change, including those in developing countries and vulnerable peoples everywhere. In contrast, those who have contributed most to climate change—the enterprises and people with the largest carbon footprints, mainly in the developed countries—are most insulated from climate change and its consequences by their wealth and access to resources. The response to climate change involves both the mitigation of greenhouse gas emissions that contribute to climate change (by reducing sources and increasing sinks) and adaptation to the impacts of climate change.⁵¹

⁴⁹ *Igini* (n. 21)

⁵⁰ Peel J, “Climate Litigation Is on the Rise around the World and Australia Is at the Head of the Pack: Find an Expert: The University of Melbourne” (*Find an Expert: The University of Melbourne*) <https://findanexpert.unimelb.edu.au/news/63107-climate-litigation-is-on-the-rise-around-the-world-and-australia-is-at-the-head-of-the-pack> accessed May 28, 2025 =

⁵¹ Preston BJ, “The Evolving Role of Environmental Rights in Climate Change Litigation” (2018) 2 Chinese Journal of Environmental Law 131

Looking ahead, it appears likely that the proliferation and increase in climate change cases with various strategic approaches cases will continue. Successful (and also unsuccessful) litigation can induce and encourage decision-makers to change their approaches, not least evidenced through cases ordering Governments to clearly reduce their GHG emissions as discussed.

As courtrooms become avenues for awareness-rising and environmental advocacy, the power to influence policy, hold entities – including Governments and private entities – accountable, and drive systemic change is vested in the hands of those seeking environmental justice, which in many cases have been youths. In essence, climate change litigation offers a unique tool to alter the dynamics of the global effort to combat climate change, ultimately leading to climate justice benchmarks which protect the right of both present *and* future generations.⁵²

Climate change litigation is transforming the global response to the climate crisis. By holding states and corporations accountable, expanding legal principles, and catalyzing policy change, it has become an indispensable tool for climate governance. Yet, significant challenges remain, including jurisdictional limitations and evidentiary burdens, which must be addressed to fully realize its potential. The growing prominence of climate litigation is also reshaping the legal landscape. It challenges legal practitioners to navigate uncharted territories in international and domestic law, requiring the integration of environmental science, human rights principles, and legal doctrines. This interdisciplinary approach is essential for addressing complex issues such as liability, causation, and transboundary impacts. In doing so, the legal community plays a pivotal role in advancing accountability and promoting equitable climate governance, ensuring that justice remains at the heart of the global climate response.⁵³

⁵² Rydberg AV, “Climate Change Litigation: General Perspectives and Emerging Trends” (2024) 26 International Community Law Review 347

⁵³ “The Growing Wave of Climate Change Litigation: Trends and Impacts” (ICAS, January 10, 2025) <https://chinaus-icas.org/research/the-growing-wave-of-climate-change-litigation-trends-and-impacts/> accessed May 29, 2025