

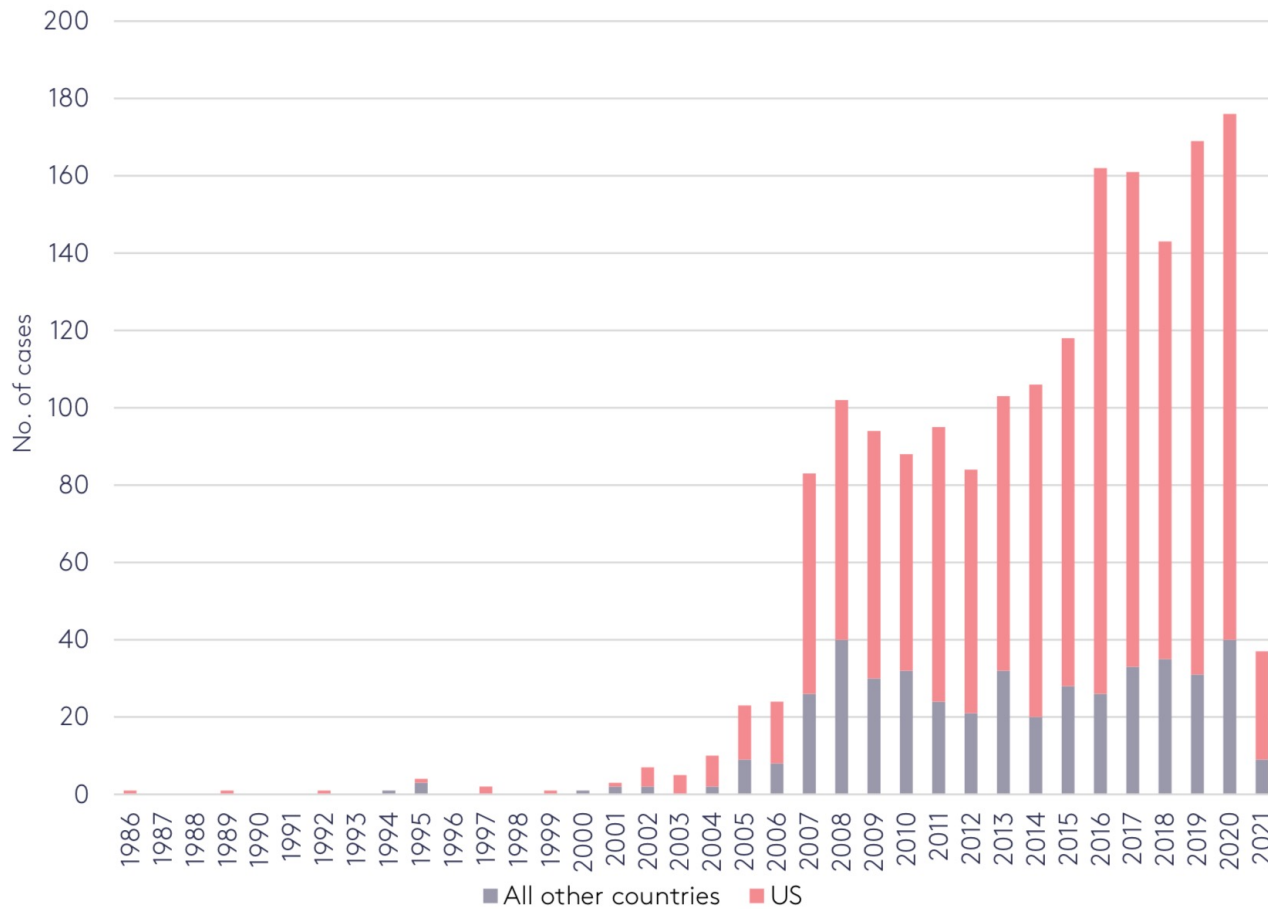


FIRST PLENARY SESSION: HOW CAN LEGISLATION AND LITIGATION HELP IMPLEMENT THE PARIS AGREEMENT

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Climate litigation



Note: These data are from the databases and may be incomplete, as discussed in the Introduction.

Source: Authors based on CCLW and Sabin Center data

Global trends in climate litigation: 2021 snapshot

- Advocacy and/or regulatory strategy
- 28 countries plus EU across all geographical regions
- More than 1000 cases filed in US, and over 300 filed in other jurisdictions
- Not just a Global North phenomenon (cases in Asia, Latin America and Africa)
- Direct versus indirect effects of litigation

Relationship between legislation and litigation

Climate legislation

- Generating debate about climate measures
- Creating an institutional framework for developing and implementing climate policies
- Articulating goals and targets
- Sending clear signal for action to corporates and other stakeholders
- Note that in the Global South, environmental and natural resources laws provide important basis for climate litigation

Litigation

- Accountability mechanism
- Citizens and civil society groups can hold government accountable (e.g. Leghari v Pakistan)
- Litigation can generate debate about climate policy and create push for legislation (e.g. Urgenda v the Netherlands)
- Ratchet up ambition (e.g. Neubauer et al v Germany)

Climate litigation and the rule of law

Five conditions as key indicators for the emergence of climate change litigation:

access to justice which includes broad standing rules and the removal of barriers such as hefty court fees and security of costs orders

a climate-conscious judiciary

progressive environmental jurisprudence and/or the existence of climate change laws

constitutional protection for the environment including the right to a clean environment

robust civil society



Notable trends in climate litigation

Use of human rights arguments continues to rise

Cases against corporates (e.g. Milieudefensie et al v Royal Dutch Shell) and financial institutions (e.g. McVeigh v Retail Employees Superannuation Trust)

Emergence of climate litigation in the Global South

- Asia (climate frontrunner: India)
- South America (climate frontrunner: Brazil)
- Africa (climate frontrunner: South Africa)

Thank you!