

**Connecticut Debate Association
New Canaan High School and Warde High School
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THR (This House regrets) climate lawsuits.

Climate change litigation

From Wikipedia, the free encyclopedia

Climate change litigation, also known as climate litigation, is an emerging body of environmental law using legal practice to set case law precedent to further climate change mitigation efforts from public institutions, such as governments and companies. In the face of slow politics of climate change delaying climate change mitigation, activists and lawyers have increased efforts to use national and international judiciary systems to advance the effort. Climate litigation typically engages in one of five types of legal claims:[2] Constitutional law (focused on breaches of constitutional rights by the state),[3] administrative law (challenging the merits of administrative decision making), private law (challenging corporations or other organizations for negligence, nuisance, etc., fraud or consumer protection (challenging companies for misrepresenting information about climate impacts), or human rights (claiming that failure to act on climate change fails to protect human rights).[4]

‘Game changing’: spate of US lawsuits calls big oil to account for climate crisis

The Guardian, by Dharna Noor, 7 Jun 2023

Next week the first constitutional climate lawsuit goes to trial amid signs fossil fuel companies are facing accountability tests

Climate litigation in the US could be entering a “game changing” new phase, experts believe, with a spate of lawsuits around the country set to advance after a recent supreme court decision, and with legal teams preparing for a trailblazing trial in a youth-led court case beginning next week.

The number of cases focused on the climate crisis around the world has doubled since 2015, bringing the total number to over 2,000, according to a report last year led by European researchers.

The US has not always led the way, but experts say that could be changing as:

The first constitutional climate lawsuit in the US goes to trial on Monday next week (12 June) in Helena, Montana, based on a legal challenge by 16 young plaintiffs, ranging in age from five to 22, against the state’s pro-fossil fuel policies.

A federal judge ruled last week that a federal constitutional climate lawsuit, also brought by youth, can go to trial. More than two dozen US cities and states are suing big oil alleging the fossil fuel industry knew for decades about the dangers of burning coal, oil and gas, and actively hid that information from consumers and investors.

The supreme court cleared the way for these cases to advance with rulings in April and May that denied oil companies’ bids to move the venue of such lawsuits from state courts to federal courts.

Hoboken, New Jersey, last month added racketeering charges against oil majors to its 2020 climate lawsuit, becoming the first case to employ the approach in a state court and following a federal lawsuit filed by Puerto Rico last November.

“I don’t know of another time in history where so many courts in so many different levels all over the globe [have been] tasked with dealing with a similar overarching issue,” said Karen Sokol, law professor at Loyola University New Orleans College of Law.

Research also continues to unearth more about the fossil fuel industry’s knowledge of climate change. A January study revealed that Exxon had made “breathtakingly” accurate climate predictions in the 1970s.

Dead lodgepole pine stand out like grey ghosts among living trees in the Beaverhead-Deerlodge national forest along the Flint Creek Range near Deer Lodge, Montana.

Dead lodgepole pine stand out like grey ghosts among living trees in the Beaverhead-Deerlodge national forest along the Flint Creek Range near Deer Lodge, Montana. Photograph: Chip Somodevilla/Getty Images

The vast majority of climate-focused cases in the US have previously focused on the regulation of specific infrastructure projects, such as individual pipelines or highways, said Michael Gerrard, founder and faculty director of Columbia Law School’s Sabin Center for Climate Change Law.

But the new forms of climate litigation are different, as they grapple not with particular projects’ emissions, but on responsibility for the climate crisis itself. Sokol, who dubbed these new suits “climate accountability litigation”, says though they will not alone lower emissions, they could help reshape climate plans.

Youth climate cases

In the US, this litigation has taken a variety of forms; perhaps the best known cases are based on constitutional rights and brought by youth.

One of those cases, *Held v Montana*, is based on the state's constitutional guarantees to a clean and healthy environment, which were enshrined in the 1970s and which the plaintiffs say the state has violated by supporting fossil fuels. It will next week become the first-ever constitutional climate lawsuit to go to trial in the US.

"Our government knows the devastating effects of fossil fuels and must take action to protect the land that my family and fellow Montanans rely upon and hope to conserve for future generations," the plaintiff Rikki Held, then 18, said in 2020.

In what attorneys on the case assert was a thinly-veiled attempt to avert a trial, state legislators in March repealed one of two laws that the suit directly challenges. But in May, the judge who is scheduled to hear the case rejected the state's bid to throw out the case, allowing the trial to proceed.

Advocates hope the two-week trial, scheduled to begin on Monday 12 June, could set precedent for similar cases to move forward. It could also inspire legal action in other states, like Pennsylvania and New York, which like Montana guarantee constitutional environmental rights.

Held v Montana followed the highly publicized 2015 *Juliana v United States* in which 21 young people from Oregon sued the US government for violating their constitutional rights to life, liberty and property by enacting policies that drove and exacerbated the climate crisis. The case, which like the Montana suit was filed by the non-profit law firm Our Children's Trust, calls on federal officials to phase out fossil fuels.

Last week, a US district court ruled in favor of the youth plaintiffs, allowing that their claims can be decided at trial in open court.

"It was really a happy surprise," Julia Olson, lead counsel for the youth plaintiffs, said at a Monday evening advocacy meeting, adding that the legal team will ask for an expedited trial date.

Litigation based on state constitutional rights, also filed by Our Children's Trust, is currently pending in four other states. One of those cases brought by Hawaii youth is set to go to trial, possibly as soon as this fall.

"We went from no constitutional climate trials in US history to [having] three in the works," Erin Barnhardt, chief communications officer at Our Children's Trust, said at the Monday meeting.

Disinformation cases

Another set of lawsuits in the US allege that the fossil fuel industry has for decades known about the dangers of burning coal, oil and gas, and actively hid that information from consumers and investors. Since 2017, seven states, 35 municipalities, the District of Columbia, and one industry trade association have sued major fossil fuel corporations and lobbying groups on these grounds.

Unlike the youth plaintiffs' constitutional cases, the disinformation lawsuits ask for monetary damages based on destruction wrought by the climate crisis.

The oil industry has long requested to have these cases heard in federal courts instead of the state courts where they were filed, which are seen as more favorable to the challengers – "an intentional strategy by the oil industry designed to kill the cases", said Carroll Muffett, CEO of the Center for International Environmental Law. But the supreme court recently cleared this hurdle.

In April, the high court turned down five such appeal requests by oil majors. The following month, it issued a similar decision on appeal requests in lawsuits filed by Hoboken and Delaware.

That win could be "game changing" for the litigation, said Delta Merner, lead scientist at the Science Hub for Climate Litigation at the Union of Concerned Scientists. There could still be procedural challenges and delay, but now, they could begin to see courts debate their legal merit.

"For half a decade where they've been sitting in these jurisdictional battles, climate change has continued to advance and communities have suffered unimaginable losses due in part to the reckless nature of what the fossil fuel industry has been doing," she said. "Now, there still is a long journey these cases will go through, [but] it's a very different landscape."

Theodore J Boutros, counsel for Chevron, called the lawsuits "wasteful", saying the climate crisis "requires a coordinated and thoughtful federal policy response, not a disjointed patchwork of lawsuits in state courts across multiple states".

But Sam Sankar, senior vice-president for programs at Earthjustice, said the lawsuits aren't attempting to set policy. "They're attempting to recover the costs of climate change from the industries that were instrumental in creating the crisis," he said.

If the decisions survive dismissal motions, the seven cases will likely move into discovery – the pre-trial process when both sides can request evidence to help strengthen their cases.

A lawsuit in Massachusetts has already defeated the companies' motions to dismiss and is already in discovery; a

trial is set to take place sometime after the process concludes in July 2024. In a case brought by the city and county of Honolulu, Hawaii, a limited version of the discovery process has also begun.

Todd Spitler, an ExxonMobil spokesperson, said his company will “continue to fight these suits, which are a waste of time”. A spokesperson for the lobbying group American Petroleum Institute, which is a defendant in some of the suits, said the industry has substantially cut emissions over the past two decades.

Experts say that because companies are still expanding fossil fuels, their actions don’t come close to heeding the warnings of top scientists.

There is already abundant evidence of the fossil fuel sector’s history of misinformation, thanks to reporting, research and congressional investigations. That means lawyers can be highly targeted in the discovery process, potentially providing fodder for future litigation, Muffett said.

New approaches

Each of the two dozen disinformation cases are based on some combination of four different legal theories: tort law, product liability, consumer protection – and, most recently, racketeering.

In late April, lawyers for the city of Hoboken amended a 2020 complaint to allege that the defendants violated New Jersey’s racketeering laws by conspiring to sow doubt about climate change.

It marked the first-ever state-level lawsuit of its kind, following one last year in which 16 Puerto Rico cities brought federal racketeering charges, originally used to bring down criminal enterprises like the mafia, against big oil.

Unlike some previous cases, Hoboken’s amended lawsuit focuses not only on past misinformation, but also on contemporary greenwashing – something that could feature prominently in future cases.

Coming litigation might also target financial institutions like banks and asset managers that back fossil fuel expansion, as well as companies involved in the production of energy, food and plastics – strategies already seen in other countries.

Strides in scientific attempts to attribute particular climate disasters to specific actors could open the door to new litigation, said Merner. Groundbreaking research last month quantified the amount of annual climate reparations top fossil fuel companies owe to frontline communities, while a Union of Concerned Scientists study released the same week attributed an amount of acreage burned by forest fires to top emitters.

A study last month examined litigation against fossil fuel majors and found that the filing of a new case or a court decision against a corporation took a slight toll on their finances. Novel developments – including a groundbreaking 2021 Netherlands court ruling ordering Shell to substantially slash its carbon emissions, and an unprecedented transnational claim filed in 2012 by a Peruvian farmer against a German energy company – yielded bigger blows.

Sankar, of Earthjustice, said he expects to see new forms of climate litigation in future years. “As the impact on states and localities increases, they are increasingly going to be looking for ways in which their state and local laws protect them,” he said.

Government lawsuits threaten consumers’ pockets and do little to help the environment

Danielle ZanzalariSpecial to the USA TODAY Network, November 1, 2023

American courts cannot solve climate change — yet cities and states continue to try.

A few weeks ago, California became the latest government to file a lawsuit against major energy companies, joining New Jersey, Hoboken and more than two dozen other local and state governments around the country to file such suits. These lawsuits allege that companies that sell energy should pay billions of dollars for infrastructure upgrades, because energy is a contributor to climate change.

However, this money is not free. If these lawsuits are successful, companies will raise the price of energy for all of us.

In fact, environmental advocates and lawyers for local governments have actually stated that the goal of climate legislation is to raise the cost of energy. They believe forcing companies to raise the price of the energy they don’t like, such as from fossil fuels, will make it too expensive for people and businesses, thus decreasing the amount used.

However, this effort will harm American consumers and is not based in economic reality.

First, the elasticity of demand for gasoline is extremely low, meaning people cannot change purchasing behaviors and use less energy simply because the price goes up. Their cars, homes and businesses rely on these fuels, and they do not have the choice to avoid them. So, if these lawsuits cause energy companies to raise their prices, it will not lead to a reduction in fossil fuel use. It will just lead to higher prices. Families and businesses facing these economic pressures will skimp elsewhere.

Second, the persistent demand for energy cannot be satisfied with other fuels at a reasonable cost. There are no low-cost, renewable substitutes for the amount of energy society consumes. Despite companies diligently working to

create more sustainable energy sources, the U.S. Energy Information Administration estimates that the United States' reliance on petroleum will be about the same in 2050 as it is in 2023.

This means consumers will end up absorbing the cost of these lawsuits by paying higher energy bills. Prices have already been rising, given that inflation is up over 17% since 2021, and families and businesses can hardly afford to pay more when they are not going to see any value for these added costs.

Further, energy companies should not become the funders of local and state governments. The federal government has made billions of tax dollars available to local and state governments for climate adaptation projects, and communities can already spend money from their own budgets on clean energy. So they have other sources for the money they say they need.

In addition, climate change is a byproduct of today's energy-intensive society. So while it may be true that climate change intensified Superstorm Sandy, as the city of Hoboken alleges in its lawsuit, that does not mean any individual energy producer can or should be assigned liability for that event. It would be akin to blaming one potato chip company for high obesity in the U.S.

Federal courts have recognized these basic legal and economic facts. In 2021, the 2nd U.S. Circuit Court of Appeals dismissed a case brought by New York City stating that even if the allegations were true, no single entity could be legally liable for global climate change. The court previously noted that "emissions in [New York or] New Jersey may contribute no more to flooding in New York than emissions in China."

Instead of this climate litigation, lawmakers should focus on tangible solutions that can actually reduce carbon emissions. As I suggested in a piece for NorthJersey.com, The Record and the the USA TODAY Network, New Jersey can reach its goal of 100% clean energy by 2050 only if the governor and Legislature align their energy policies with economic realities. This involves supporting clean energy projects, from nuclear to wind investments. Our tax dollars can and should produce real climate dividends.

Sometimes, economics, science and facts differ from ideology. They do here. These ideologically driven climate lawsuits are not worth pursuing because they can harm people economically and produce no benefits to the fight against climate change. The elected leaders bringing these cases should reconsider them, and the courts should continue to dismiss litigation that has no factual or legal merit.

Danielle Zanzalari is an assistant professor of economics at Seton Hall University, a Garden State Initiative contributor and a Young Voices contributor. She researches bank regulation and personal finance.

Lawsuits are key tool in delivering climate justice, says UN body

The Guardian, by Isabella Kaminski, 26 Jul 2023

Report says nearly 200 cases filed around the world in past 12 months challenging governments and firms
Lawsuits challenging government and corporate inaction on the climate breakdown have become an important driver of change, according to a UN body.

A report by the UN Environment Programme (Unep) and the Sabin Center for Climate Change Law at Columbia University says litigation is setting precedents for climate action all over the world, even beyond the jurisdictions in which cases are filed. But it warns of a growing legal backlash as cases are filed that could delay climate action and criminalise activists.

There have been 2,365 lawsuits relating to the climate crisis around the world, of which nearly 200 were filed in the past 12 months. The cases have covered a wide range of ground from government carbon reduction targets and strategies to corporate inaction and misinformation and claims for climate-related damages.

With extreme heat gripping parts of the planet from Europe to China, and disasters likely to increase, people are increasingly turning to the courts for answers, said Andy Raine, the head of international environmental law at Unep. "Climate litigation ... has become an undeniably significant trend in how stakeholders are seeking to advance climate action and accountability."

The majority of cases are still in the US, where a landmark constitutional trial brought by a group of young people against Montana recently drew to a close. It was one of dozens of cases filed against federal and state governments. Over the past year, Switzerland and France have been in the dock at the European court of human rights, accused of breaching the rights of their citizens, and Australia had to defend itself from allegations that it had failed to protect a group of Torres Strait Islanders from climate breakdown, which threatens to destroy their homes.

The UK government was forced to redraw its net zero strategy after a successful challenge by climate campaigners. They have applied to go back to court, arguing that the revised version is still not good enough.

Action is also increasingly being taken against major corporations. While there have not been any major successes in the US yet, a recent supreme court decision to keep a series of lawsuits against oil and gas firms in state court bodes well for plaintiffs.

Fossil fuels are not the only polluting industry being targeted. In February, formal legal action was launched by four

residents of the Indonesian island of Pari against the Swiss cement firm Holcim, demanding compensation for damages, a financial contribution to flood protection measures and the swift reduction of Holcim's CO2 emissions. Over the past year in particular, there has been an explosion in climate-related greenwashing cases, according to the LSE's latest annual review of climate litigation, including challenges to corporate climate commitments, dubious product claims, overstated investments or support for climate action, and failure to disclose climate risks. Examples include a complaint against Glencore for expanding coal production despite net zero commitments, and challenges to the EU's green investments guide.

There have been some notable success stories over the past year, particularly around marketing claims. The Dutch airline KLM said it would scrap an advertising campaign in the Netherlands telling customers to "fly responsibly" after a lawsuit by environmental groups. And the European dairy company Arla Foods, which makes Lurpak butter, was banned by a court from using the term "net zero climate footprint" when selling its products in Sweden. The LSE found that about 55% of the 549 cases where courts had made a decision had a climate-positive outcome. Although the impact of these rulings can be tricky to untangle, academics say litigation seems to be viewed as a serious issue by many businesses and financial institutions. A study recently found litigation posed a financial risk to fossil fuel firms because it lowered their share prices.

Even unsuccessful litigation "can shape narratives around climate action, encouraging decision-makers to change their approach", the LSE report said.

The Unep report says that as climate litigation increases in frequency and volume, the body of legal precedent will grow, "forming an increasingly well-defined field of law". It notes that courts are increasingly having to handle questions of state responsibility beyond national borders and are looking at other jurisdictions for guidance in how to handle climate cases.

In the future, Unep expects a rise in the number of cases related to migrants, internally displaced people and asylum seekers trying to relocate from their home countries or regions at least in part due to climate change. Indigenous communities and other groups disproportionately vulnerable to climate change are likely to bring more cases seeking policy changes or redress for climate damages.

Unep also anticipates a growing number of lawsuits before and after extreme weather disasters.

It warns of a growing legal backlash too, with some lawsuits seeking to delay rather than further climate action. A number of companies have sought compensation for government climate policies through secretive court systems embedded within trade treaties, while vulnerable workers and communities are challenging rules that they say disproportionately harm them and are not part of a "just transition". Climate activists around the world are also increasingly subject to criminal charges.

The legal theory behind California's climate lawsuit has already been debunked

The Hill, BY DONALD J. KOCHAN, 11/17/23

The courts are simply not the right place to resolve the complex issues of climate change. Demanding payments from bogeyman defendants for past acts that were completely legal is neither fair nor reasonable — and such a strategy is not going to get us to climate change solutions.

And yet the State of California just joined a long line of governmental entities that would rather sue oil and gas companies in court than do the serious work of balancing competing interests to develop an effective and comprehensive policy solution to climate change problems.

In late September, the California Attorney General filed suit against several of the world's leading energy producers and their trade association, the American Petroleum Institute, claiming their production, sale and advertising of fossil fuels makes them liable for climate change. The suit uses regularly repeated — and increasingly rejected — theories of "public nuisance" and claims of consumer fraud for alleged failure to sufficiently help consumers understand the obvious: that fossil fuels cause carbon emissions.

These kinds of cases are beginning to buzz after the Supreme Court declined in April to consider arguments as to why these lawsuits should be heard in federal or state court. In effect, the high court paved the way for these cases to proceed in state courts, without commenting on whether the theories have any merit.

Notably, similar cases that have already reached the merits stage have regularly shown that judges are ill-equipped to consider, and not empowered to embrace, climate change litigation in their courts. Two years ago, the Second Circuit Court of Appeals evaluated the merits of a lawsuit brought by New York City that raises claims almost identical to those brought by the California Attorney General.

In that case, *City of New York v. Chevron*, the Second Circuit effectively catalogued many of the problems that plague these lawsuits. The complex nature of climate change means that the issue cannot be reduced to a tort law problem. As the Second Circuit put it, "Global warming presents a uniquely international problem of national

concern. It is therefore not well-suited to the application of state law.” Furthermore, “judicial caution and foreign policy concerns counsel against permitting such claims to proceed under federal common law absent congressional direction. And since no such permission exists, each of the City’s claims is barred and its complaint must be dismissed.”

The court opined that, if there are any legal solutions, at best “it calls for the application of federal common law, not state law.” Thus, there is no role for state courts unless they are applying federal law. And even when applying federal law, Congress has displaced common law remedies, preferring to, as one would expect in a system of separated powers, resolve complex policy issues through legislation like the Clean Air Act — not litigation. As the Second Circuit ruled, “the Clean Air Act grants the Environmental Protection Agency — not federal courts — the authority to regulate domestic greenhouse gas emissions.”

Only the political branches of government can balance all of the competing interests; courts do not have that competency. Further, lawsuits can actually disrupt the careful balancing that the elected branches have sought to accomplish. Again, the Second Circuit provides wise counsel when it explained that “to permit this suit to proceed under state law would further risk upsetting the careful balance that has been struck between the prevention of global warming, a project that necessarily requires national standards and global participation, on the one hand, and energy production, economic growth, foreign policy, and national security, on the other.”

In fact, addressing an issue indistinguishable from the current California Attorney General’s efforts, the Second Circuit slapped down NYC’s efforts to circumvent the “complex web of federal and international environmental law regulating such emissions” by trying to sue companies about the issue instead. The Second Circuit exposed that these kinds of plaintiffs “effectively [seek] to replace these carefully crafted frameworks — which are the product of the political process — with a patchwork of claims under state nuisance law,” concluding that the court “cannot condone” such creative litigation.

The Second Circuit also acknowledged the oddity of saying a company can be liable, decades after acting, for selling a lawful product, noting an unwillingness to allow lawsuits that involve suing “oil companies to recover damages caused by those companies’ admittedly legal commercial conduct in producing and selling fossil fuels around the world.” A judgment against the energy producers in these cases would thus constitute retroactive punishment that flies in the face of the rule of law.

Neither the California AG nor the California courts are special. All the infirmities recognized by the Second Circuit in the 2021 Chevron case are equally present here. The California case should meet the same fate: It should be dismissed.

Donald J. Kochan is Professor of Law and Executive Director of the Law & Economics Center at George Mason University Antonin Scalia Law School.

Children Have a Right to Sue Nations Over Climate, U.N. Panel Says

The New York Times, By Somini Sengupta, Aug. 28, 2023

The finding doesn’t have the force of law, but is notable because it is based on one of the most widely accepted international treaties.

Young people around the world are increasingly taking their governments to court for failing to reduce climate pollution, and on rare occasions, they are winning.

This week, their efforts received an endorsement from an independent panel of experts that interprets United Nations human rights law, the Committee on the Rights of the Child. In an expansive 20-page document released Monday, the committee said all countries have a legal obligation to protect children from environmental degradation — including by “regulating business enterprises” — and to allow their underage citizens to seek legal recourse.

The committee’s opinion is not legally binding and is therefore impossible to enforce. But it is significant because it is based on a widely recognized international treaty and explicitly recognizes children’s right to go to court to force their government to slow down the climate crisis.

That treaty is the Convention on the Rights of the Child, which is considered the most widely ratified treaty in history because every country in the world except the United States has signed on to it. In the past, courts in many countries, including on rare occasions the United States, have relied on the committee’s interpretations in their decisions.

“Children have the right to a clean, healthy and sustainable environment,” the committee wrote. “This right is implicit in the convention and directly linked to, in particular, the rights to life, survival and development.” The committee is made up of 18 independent legal experts elected for four-year terms by diplomats representing their countries in the United Nations. The current panel includes lawyers and law professors from countries including Barbados, Morocco and South Africa.

“A strong statement under this convention would add another brick to the growing edifice of international human

rights law on climate change,” said Michael B. Gerrard, director of the Sabin Center for Climate Change Law at Columbia University.

“How can I rebut bad information when I see it?”

The committee went on to note that countries are responsible for safeguarding children from the harms of climate pollution now and in the future. “States bear the responsibility for foreseeable environment-related threats arising as a result of their acts or omissions now, the full implications of which may not manifest for years or even decades,” the committee wrote.

Climate activists tried in 2019 and failed to get a more decisive ruling from the committee. In an inventive complaint, 16 children filed a petition against five countries — Argentina, Brazil, France, Germany and Turkey — claiming that their fossil fuel emissions violated the rights of children in other countries. In 2021, the committee concluded that the petitioners should bring cases to their national courts first.

The law firm that filed that petition, Hausfeld, said on Monday that the latest guidance by the committee was “a major step to hold governments and private entities responsible for ensuring children live in a clean, green, healthy and sustainable world.”

Many people have sought legal recourse for climate impacts in their own countries, with mixed results. Just this month, in the United States, a judge in Montana ruled that the state had violated its Constitution when it failed to consider the climate change effects of fossil fuel projects. That ruling requires Montana, a major coal and gas producer, to weigh those effects in deciding whether to approve or renew fossil fuel projects. The state said it would appeal.

In Australia, teenagers who won a similar case in 2021 lost on appeal in 2022.

Cases like these rely on the principle, embedded in many national and state constitutions, that citizens have a right to a clean environment. This is essentially what the Committee on the Rights of the Child concluded in its interpretation of the child rights treaty. “Environmental degradation jeopardizes children’s ability to achieve their full developmental potential, with implications for a wide range of other rights under the convention,” it wrote. The committee called on countries to “immediately” take several actions. Countries should “equitably phase out the use of coal, oil and natural gas,” the committee wrote, as well as invest in renewable energy, improve air quality, reduce marine pollution and protect biodiversity. And children should be able to pursue “class-action suits and public interest litigation,” the committee said.

International treaties and laws haven’t often been used in climate litigation. But that’s changing. The International Court of Justice is currently weighing whether countries can be sued under existing international conventions for failing to rein in fossil fuel emissions that caused the climate crisis.

Somini Sengupta is The Times’s international climate correspondent. She has also covered the Middle East, West Africa and South Asia and is the author of the book, “The End of Karma: Hope and Fury Among India’s Young.”

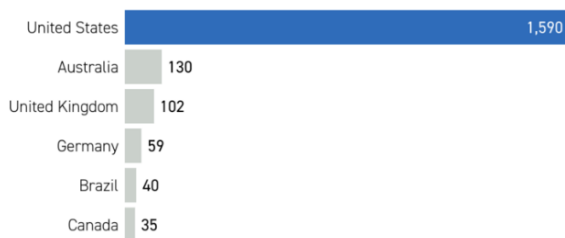
Americans love climate litigation

Politico, By JORDAN WOLMAN, 07/13/2023

THE BIG PICTURE

The U.S. has the most documented climate cases

Climate litigation cases, by country



Note: Data as of May 31, 2023. Cases filed before courts of international or regional bodies, like the EU, are not shown.
Source: London School of Economics, Columbia Law School and the Centre for Climate Change Economics and Policy
Jordan Wolman/POLITICO

We know that Americans love lawsuits. And it turns out that the national passion for litigation extends to climate-related cases.

U.S. litigants are responsible for nearly 70 percent of the climate-related suits filed globally since 1986, according to a new report jointly written by the London School of Economics, Columbia Law School and the Centre for Climate Change Economics and Policy. That’s 1,590 out of the 2,341 cases from at least 51 countries, nearly two-thirds of which have come since 2015, when the Paris Climate Accords were struck. The findings come as high profile climate-related cases have garnered recent public attention in the U.S.

The next highest is Australia, where 130 cases have been identified, followed by the U.K. at 102.

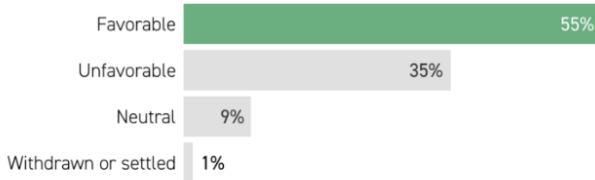
Global growth is continuing, the report found, even as the U.S. pace slows after peaking in 2020 — the last year of the Trump administration.

Finland, Romania, Russia and Thailand have all seen their first cases since the start of last year. The range of cases include ones designed to challenge a government’s implementation of a climate policy, those brought against

companies to disincentivize high-polluting activities, and others challenging the financing of polluting projects, targeting greenwashing and more recently in the U.S., “ESG backlash litigation.” The report defines a climate litigation case as one brought before a court that involves “material issues of climate change science, policy, or law.”

Rulings in global climate litigation mostly favorable for climate action

Analysis of climate litigation cases



Note: Analysis on 549 climate litigation cases. Cases where the outcome could not be determined as favorable or unfavorable were given a “neutral” status.
Source: London School of Economics, Columbia Law School and the Centre for Climate Change Economics and Policy
Jordan Wolman/POLITICO

Who is bringing these cases? It’s mostly non-governmental organizations. Nearly 60 percent of all cases going back to 1986 have been filed by NGOs. That number has risen to nearly 90 percent of cases filed in the past year outside the U.S., while in America the percentage remains lower at just over 70 percent of cases, with 13 percent filed by corporations or trade associations.

Out of the 549 cases in which interim or final decisions have been rendered, 55 percent have been favorable for climate action, 35 percent have been unfavorable with the remaining ones having been neutral, withdrawn or settled.

The report anticipates increased litigation focused on biodiversity, the duties of governments and companies

to protect the oceans, damage from extreme weather events, cases surrounding “short-lived climate pollutants” such as methane, and litigation between countries, especially regarding disputes over fossil fuels.
