

New Study Identifies Key Trends in Worldwide Climate Change Litigation

- U.S. has three times more Climate Change Litigation cases than the rest of the world combined
- Number of countries with climate change cases has tripled since 2014
- ‘Climate Refugees’ to become a major legal issue

Nairobi, 23 May 2017 - A new study has identified key trends in worldwide climate change litigation, including a rise in cases that seek to hold governments to account for climate-related commitments and more litigation expected from the Global South as developing countries look to the law to address the growing threat of climate change. The study also finds that the United States has 654 climate change litigation cases - almost three times that of the rest of the world combined - and that countries in which climate change cases have been filed have tripled since 2014.

The Status of Climate Change Litigation - A Global Review by UN Environment and Columbia Law School’s Sabin Center for Climate Change Law presents the findings from the most up-to-date global climate change litigation survey. The report finds a proliferation of climate change cases, many of them filed by citizens and non-government organizations around the world.

And it’s not just coalitions of non-government organizations and citizens - as seen in recent European cases outlined in the report - that are using the courts in efforts to overturn government decisions seen to exacerbate climate change. The report describes how, in September 2015, a Pakistani lawyer’s case against the national government for failure to carry out the National Climate Change Policy of 2012, resulted in the designation of climate change focal points to several ministries to help implement the framework and the creation of a climate change commission to monitor the government’s progress.

"It's patently clear we need more concrete action on climate change, including addressing the root causes and helping communities adapt to the consequences. The science can stand up in a court of law, and governments need to make sure their responses to the problem do too," said Erik Solheim, head of UN Environment.

Around 177 countries recognize the right of citizens to a clean and healthy environment, and courts are increasingly being asked to define the implications of this right in the age of climate change. With some exceptions, the report finds that governments are almost always the defendants in climate change cases.

“Judicial decisions around the world show that many courts have the authority, and the willingness, to hold governments to account for climate change,” said Michael Burger, Executive Director of the Sabin Center for Climate Change Law.

“In the United States, climate change litigation has been absolutely essential, from the first lawsuit demanding the U.S. Environmental Protection Agency regulate greenhouse gas emissions, to a recent lawsuit claiming a constitutional right to a stable climate system. Similar litigation all over the world will continue to push governments and corporations to address the most pressing environmental challenge of our times.”

The report identifies several emerging climate change litigation trends including an expected rise in the number of ‘climate refugee’ and human rights cases as a direct result of migration, resettlement, disaster recovery, access to

resources and shifting populations. By 2050 climate change could, according to some estimates, displace up to 1 billion people and that number could soar still higher later in the century if global warming is not kept under 2 degrees Celsius this century (compared to pre-industrial levels).

The need to address the situation of persons displaced due to disasters, including the effects of climate change, has been acknowledged by the international community, including the United Nations Office of the High Commissioner for Refugees. Yet there is no international agreement on the rights of persons displaced by climate change or the obligations of countries with respect to them. However, a number of early cases included in the report from New Zealand indicate how courts may approach these types of cases going forward.

The findings make clear that reliance on technology and non-climate policy initiatives are not sufficient to deal with the threat of climate change. Climate laws and policies, it concludes, are a critical part of any strategy to deal with the threat of climate change, and because of the Paris Agreement, people, companies and non-governmental organizations can now argue in some jurisdictions that their governments' political statements must be backed up by concrete measures to mitigate climate change. The Paris Agreement puts national laws and policies into a global context and thereby enables litigants to construe governments' commitments and actions as being adequate or inadequate.

As climate change litigation has grown it has addressed a widening scope of activities, ranging from coastal development and infrastructure planning, to resource extraction, and is growing in ambition and effectiveness. Litigation has emerged as an important feature of on-going efforts to promote climate change mitigation and adaptation. The report provides judges, advocates, researchers, and the international community with an overview of litigation trends and descriptions of key issues that courts must resolve in the course of climate change cases. It is also expected to contribute to a common language among practitioners around the world working to address climate change through the courts.

Notes to Editors:

Download a copy of the report: <http://www.unep.org/environmentalgovernance/climate-change-litigation>

Sign up for Sabin Center updates on climate change litigation: <http://wordpress2.ei.columbia.edu/climate-change-litigation/contact/>

For more information and to arrange interviews, please contact:

Niamh Brannigan, Communications and Information Management Officer - niamh.brannigan@unep.org +254 717733348

Tiffany Challe, Communications Associate, Sabin Center for Climate Change Law – tc2868@columbia.edu, +001 2128540594