

Litigating Climate Change in the Global South

Professor Jolene Lin Professor Jacqueline Peel

While climate change litigation in developed countries of the 'Global North' is a well-studied phenomenon, relatively few studies focus on climate case law emerging in the Global South, its distinctive characteristics and the contribution it is making, and may make, to implementation of international climate laws like the Paris Agreement.

Drawing on our [earlier](#) research, [Litigating Climate Change in the Global South](#) is the first monograph-length work in the English language to provide a comprehensive assessment of the emerging and accelerating climate litigation in Global South developing countries. In undertaking this project, we were guided by the hypothesis that, "...without capturing and analysing the richness of climate cases emerging in the Global South, we will only ever have a partial understanding of what climate litigation is, how it comes about, and the role that it plays in addressing the global problem of climate change. As the number of climate cases across Global South countries has exploded in recent years, that task has only assumed more importance..." (page 2).

Comprising of six chapters, the book seeks to answer the following questions:

- *Why* a study of Global South climate litigation is significant, especially in the context of broader international law and governance efforts to address climate change;
- *Where* such climate cases are occurring, including how we are understanding the scope of the 'Global South';
- *What's* encompassed by climate change litigation, which touches on the issue of how such cases are defined and categorized;
- *How* Global South climate litigation is occurring, including trends in the case law and indications of what socio-political, legal, and institutional conditions tend to promote the emergence of such cases in a country;
- *Who* are the actors involved in litigating climate change in the Global South and what roles they play; and
- *What* then are the emerging impacts of this case law in making a meaningful contribution to addressing climate change, and what might be the areas in which we see further development of this jurisprudence in the future.

In defining climate litigation, we highlight the ways that conventional definitions have adopted an implicit Global North framing of what counts as a climate case. We argue that by adjusting the 'lens' through which we view climate litigation, we get a much broader and more inclusive picture of climate litigation and its occurrence in Global South countries. As of May 2023, climate litigation has unfolded in twenty Global South jurisdictions including Kenya, Uganda, Peru, Colombia, Nepal and Thailand. In each of the geographical regions of Africa, Latin America and Asia, we identified the jurisdiction where the largest number of climate cases has been filed. These jurisdictions are South Africa, Brazil and India respectively. In Chapter 4 of the book, we use detailed analysis of climate cases in these 'frontrunner' jurisdictions to provide insights into the conditions that encourage the development of climate litigation in Global South countries. A key finding is the promotive role played by institutional and socio-legal factors such as reasonable access to the courts to resolve disputes, the existence of climate laws and/or constitutional environmental rights, and an active civil society—all important markers of a jurisdiction's adherence to the environmental rule of law.

It is often asked: Who are the people using litigation as a tool to strengthen climate change policy responses and to halt climate-destructive projects? Chapter 5 of the book sheds some light on the constellation of key actors and their roles in enabling the emergence of climate change litigation in the Global South. The 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. The work of these actors often cuts across geographical boundaries and governance scales. As such, while climate change litigation continues to take place primarily in domestic courts, it is a transnational legal phenomenon.

In her Foreword, Mrs Justice Ayesha A Malik of the Supreme Court of Pakistan writes "[i]n the spirit of intellectual exploration, this book introduces a framework that tracks continents and perspectives. Its purpose goes beyond documentation; it aspires to spark conversations, catalyse inquiries, and encourage further research to refine our understanding of climate litigation's role in shaping a

sustainable future."

Indeed, we hope that this book offers interesting glimpses into the world of climate litigation in the Global South which has hitherto been an under-explored and under-represented context. With the global North having more than twenty years of climate litigation experience over the global South, it could be tempting to replicate familiar patterns of knowledge diffusion premised on the notion of the global South learning and receiving resources from the (advanced) North. We [continue to argue](#) that this temptation should be resisted; the climate litigation space shows that the global South experience is a rich and powerful one that offers many opportunities for multi-directional learning.

Authors:

Professor Jolene Lin is an Associate Professor at the Faculty of Law, National University of Singapore (NUS), and Director of the Asia Pacific Centre for Environmental Law. Her expertise lies in climate change law and transnational environmental law. She has published extensively on climate change litigation and legal developments across jurisdictions (e.g., the European Union) and sectors (e.g., shipping), including *Climate Change Litigation in the Asia Pacific* (ed. with D. Kysar, 2020, CUP). Professor Lin is also a member of the International Expert Group (China) of BIICL's [Global Toolbox on Corporate Climate Litigation](#).

Professor Jacqueline Peel is an internationally renowned expert in environmental and climate change law. She is the Director of Melbourne Climate Futures at the University of Melbourne, where she leads interdisciplinary initiatives to drive positive climate outcomes. Her work spans international, transnational, and national dimensions, with a particular focus on the intersection of law and science in environmental risk regulation. Professor Peel has authored numerous influential books, including *The Oxford Handbook of International Environmental Law* (ed. with L. Rajamani, 2021, OUP) and *Climate Change Litigation: Regulatory Pathways to Cleaner Energy* (with H. Osofsky, 2015, CUP). She was a Lead Author for the IPCC's Sixth Assessment Report. Professor Peel is the National Rapporteur for Australia and a member of the [Core Group](#) of BIICL's Global Toolbox on Corporate Climate Litigation.

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