



By: Tomorrow's Affairs Staff

Expect even more climate change lawsuits - precedents for changing climate policies



If you plan to sue a state this year, or a company that you believe is fuelling climate change, you will be a part of a new trend in environmental activism.

The number of climate-related lawsuits has been drastically growing around the world, so it seems that environmental activism has been rapidly moving away from its traditional methods of street protests and petitions to judicial institutions.

At the moment, more than 2,200 climate litigation cases are active, twice as many as in 2015, according to data from the Climate Change Laws of the World database, which is run by the LSE's Grantham Research Institute on Climate Change and the Environment.

Two thirds of these proceedings are conducted against states and their institutions which deal with climate and environmental protection. Also, two-thirds of litigations were initiated by NGOs worldwide, and two-thirds of all these proceedings are conducted in the United States.

This might seem like a "war" specific to the US, waged by eco-activists there against their institutions.

However, this is not restricted to the US, given the growth in the number of similar cases in other parts of the world.

The main target of litigation is public policy

The number of requests for environmental justice has been increasing in the countries of the so-called "global south", particularly in Latin America, East Asia and Africa.

This kind of expansion could have a very positive impact on harmonising global efforts to reduce pollution and stop climate change, because these are regions with largely underdeveloped climate policies and, at the same time, major environmental problems.

Regardless of whether the lawsuits are directed against the state, when a company, or even individuals, are suspected of pollution, the main target of such processes is public policy.

Court processes demand that they change, or meet their goals and deadlines faster and more efficiently, particularly the reduction of carbon dioxide emissions.

According to the Climate Change Laws of the World database, there are currently more than 3,100 climate laws and policies at the national, regional and global level.

The three largest global emitters of carbon dioxide from burning fossil fuels: China, the US and India, have a total of more than 110 such laws and policies. This suggests that the developed regulations in this area are not a guarantee for the effective reduction of the main factors of climate change.

There is room for change in those policies and better application through court proceedings, in democratic systems with an independent judiciary.

The same actors before the courts all over the world

One of the "stars" of this year's eco-trials before the courts will be a lawsuit initiated by a group of children and young people against the US state of Montana.

They believe that by powering its energy system with fossil fuels, the state did not protect their constitutional right to a healthy and clean environment.

"Never before has a climate change trial of this magnitude happened", said Andrea Rodgers, senior litigation attorney with Our Children's Trust, which is behind the case, to the Guardian.

"The court will be deciding the constitutionality of an energy policy that

promotes fossil fuels, as well as a state law that allows agencies to ignore the impacts of climate change in their decision-making”.

Cases with similar actors – groups of young people and NGOs against their countries with identical claims, will appear this year before the courts in Mexico, Canada, South Africa, and Switzerland.

Whether they are synchronised or not, they have identical expectations: to use precedents to put pressure on governments and international organisations to meet the goals of their environmental policies more effectively, or to change them, hoping for positive court decisions.

Governments face greater risks of being sued

This year, governments will be more exposed to the possibility of being sued.

Due to the disruption in the energy market caused by the Russian invasion of Ukraine, governments have increasingly tolerated old and dirty energy sources, which they previously intended to reduce and abolish.

This is particularly true for European countries, which, due to the reduction and abolition of dependency on energy sources from Russia, have been giving coal another chance as a fuel for thermal power plants, thereby delaying the fulfilment of their goals of zero carbon dioxide emissions.

Also, still unresolved problems with international supply chains have been slowing down the transition from traditional gasoline and diesel engines to electric drive.

“Climate change litigation continues to evolve rapidly, and we expect that case numbers will carry on growing”, concluded Joana Setzer and Catherine Higham in their policy report on global trends in climate change litigation for 2022.

Whether you decide to sue a state for failing to meet its obligations to reduce the greenhouse effect, or a specific company for pollution, or even their leaders for violating their environmental obligations, your effort will go in the same direction.

It will be towards increasing the responsibility of the government to fulfil its obligation to reduce emission of harmful gases, and thus protect the fundamental human right to a healthy and clean environment.