

Climate Litigation: Brief remarks on a growing movement

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Climate litigation is an emerging force, using the courts to push governments and companies to take action on climate change. Through legal challenges, plaintiffs seek to compel mitigation, adaptation, risk management, or compensation for climate-related harm.¹ This growing trend reflects not only mounting social pressure, but also a shift in how legal systems interpret the responsibilities of states and businesses in the face of climate risk.

Since the 1980s, growing awareness of climate change and the introduction of new environmental laws—such as the UN Framework Convention on Climate Change, the Kyoto Protocol, the Paris Agreement, and Brazil's own National Environmental and Climate Change Policies—have fueled a surge in climate-related lawsuits. These cases have become more frequent, involve a wider range of stakeholders, and present increasingly complex legal questions.

The 2023 Global Climate Litigation Report² found that climate lawsuits more than doubled between 2017 and 2022. Brazil has mirrored this trend, with a 750% increase in climate-related cases since 2018, reaching around 120 lawsuits by 2024.³

Of the 120 climate cases filed in Brazil up to 2024, 35% can be classified as systemic, aiming for broad changes in public or private policy, with the potential to impact society as a whole. The other 65% focus on specific acts or projects.

Among the systemic cases, two Constitutional Challenges (ADPF 708 and ADO 59) stand out. These actions questioned the federal government's decision to allow the Climate Fund and the Amazon Fund (designed respectively to finance mitigation and adaptation measures against climate change and to foster conservation projects in the Amazon region) to sit idle, leaving vital resources for mitigation and conservation untouched. In both cases, Brazil's Supreme Federal Court recognized this prolonged stagnation as a constitutional failure and affirmed the government's duty to make the funds fully operational. Two other public policy cases, Constitutional Challenge ADPF 760 and Constitutional Challenge ADO 54, addressed federal policies to combat deforestation in the Amazon. In a decision that underscores the importance of climate issues in safeguarding fundamental rights, the Supreme Federal Court found persistent structural flaws in environmental protection in the Amazon—flaws serious enough to justify judicial intervention—and ordered the government to reduce deforestation in the Legal Amazon to 3,925 km² per year by 2027 and to zero by 2030.

In cases targeting specific acts or projects, plaintiffs most often seek mitigation measures—such as reducing or removing greenhouse gas emissions—or compensation for climate-related losses. Lawsuits involving

illegal deforestation and the energy sector make up the majority of climate litigation in Brazil.

Some of the most notable targeted cases focus on environmental licensing for carbon-intensive projects. In a lawsuit challenging the Nova Seival thermoelectric plant,⁴ the court found that affected communities did not have effective participation in the licensing process, and that the environmental impact assessment failed to address mitigation or compensation for greenhouse gas emissions, as well as air quality standards. As a result, the court concluded that the licensing for the plant did not comply with environmental legislation. Similarly, three lawsuits targeting the Guaíba Mine⁵—the country's largest open-pit coal project—led to its environmental license being invalidated due to the lack of community participation. The company ultimately abandoned the project.

Looking ahead, climate litigation in Brazil is set to grow—not just in volume, but in complexity, as the courts are increasingly called upon to shape the interpretation of constitutional and statutory rights and obligations in these cases. This scenario of rapid change will demand close attention to evolving legal precedents; at the same time, governments will be required to be more proactive in their policies, and companies will need robust planning to minimize the risk of being taken to court over environmental compliance.

NOTES

1. The 2022 Climate Transparency Report—the most comprehensive global review of how G20 economies are addressing climate change and a key reference in COP 30 discussions—highlights the urgent need for G20 countries to accelerate the implementation of their Nationally Determined Contributions to meet 2030 targets. For Brazil, while the report notes a 2% decrease in greenhouse gas emissions between 2015 and 2019, it also points to rising methane emissions and concludes that Brazil's efforts remain insufficient to keep global warming within the 1.5°C limit.
<https://www.climate-transparency.org/wp-content/uploads/2022/10/CT2022-Summary-report.pdf>.
2. https://wedocs.unep.org/bitstream/handle/20.500.11822/43008/global_climate_litigation_report_2023.pdf?sequence=3
3. See the 2024 Brazilian Climate Litigation Bulletin published by the JUMA environmental law research group at the Pontifical Catholic University of Rio de Janeiro (PUC-Rio):
https://juma.jur.puc-rio.br/en/_files/ugd/a8ae8a_f35392798dac47a4bbbf4c8128f26627.pdf
4. Public Civil Action 5030786-95.2021.4.04.7100.
5. Public Civil Actions 5069057-47.2019.4.04.7100, 5044993-20.2019.8.21.0001 and 5049921-30.2020.4.04.7100.

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