# Appendix

Table 1: Global South climate cases

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| **Case/**  **Year** | | **Jurisdiction** | **Plaintiff(s)** | **Defendant(s)** | **Global North partner(s)** | **Brief Facts** |
| **ASIA** | | | | | | |
| 1 | ***MoE v. Selatnasik and Simpang***  (2010) | Indonesia | Ministry of Environment (MoE) | 2 mining companies | No | Mining companies alleged to have conducted illegal activities outside their concession areas, including the clearing of protected forests and constructing an illegal port by landfilling the coastal area. The District Court of North Jakarta ruled in favor of the plaintiff and awarded all the heads of damages sought. Notably, the defendant companies were required to compensate for the release of GHGs resulting from their activities. The “restoration costs for carbon release” were set at US$480,000. |
| 2 | ***MoE v. PT Merbau Pelalawan Lestari***  (2014) | Indonesia | Ministry of Environment (MoE) | Company | No | The defendant was accused of illegal logging. The MoE sought compensation of about US$1.2 billion. The District Court and High Court of Pekanbaru ruled in favor of the defendant company. The Supreme Court reversed the lower court decisions. The company was required to pay compensation, which included costs to restore the forests (to re-capture the GHGs that had been released). |
| 3 | ***MoE v. PT Kalista Alam***  (2013) | Indonesia | Ministry of Environment (MoE) | Company | No | MoE argued that the defendant had intentionally drained and burned the peatland in its concession area. Such actions are illegal as there are various laws that require concession holders to take preventive and remedial measures against fires. MoE claimed that the environmental damage includes loss of biodiversity and climate change (release of GHGs). The defendant was found guilty and ordered to pay compensation for the release of CO2 into the atmosphere (through the fires) as well as the reduced ability of the peatland to absorb carbon after the fires. |
| 4 | ***MoEF v. PT Bumi Mekar Hijau*** (2016) | Indonesia | Ministry of Environment and Forestry (MoEF, the former MoE) | Timber company | No | MoEF argued that the defendant intentionally set fire in the plantation to clear land in the cheapest manner possible. MoEF sought compensation (applying the same logic as *Kalista Alam*). The District court ruled in favor of the defendant. On appeal, the High Court reversed the lower court decision but only awarded MoEF about 1% of the total compensation sought. No reasons were given for this compensation award. |
| 5 | ***MoEF v. PT Jatim Jaya Perkasa***  (2016) | Indonesia | Ministry of Environment and Forestry (MoEF) | Oil Palm Company | No | MoEF sued the defendant for setting fire to the land to clear it for palm oil cultivation. MoEF sought restoration measures, including compensation for carbon released into atmosphere. The High Court of Jakarta ruled in favor of MoEF. |
| 6 | ***MoEF v. PT Waringin Agro Jaya***  (2017) | Indonesia | Ministry of Environment and Forestry (MoEF) | Oil Palm Company | No | MoEF sued the defendant for setting fire to the land to clear it for palm oil cultivation. MoEF sought restoration measures, including compensation for carbon released into atmosphere. The court ruled in favor of MoEF. |
| 7 | ***Komari v. Mayor of Samarinda*** (2013) | Indonesia | Individuals | Government | No | The plaintiffs argued that they were victims of climate change, which was causally linked to the government’s failure to take climate change into account when issuing permits for coal mining and failure to enforce the relevant laws. The plaintiffs pointed to policies and administrative decrees that required the relevant government agencies to act to reduce GHG emissions. The district court ruled in favor of the plaintiffs and ordered the government to review its existing coal mining policies and practices. On appeal, the High Court upheld the District Court’s judgment. However, the Supreme Court overturned the High Court’s decision (in 2018). |
| 8 | ***Bali Power Plant Case*** (filed June 2018) | Indonesia | 3 individuals (from the local community) + Greenpeace Indonesia | Governor of Bali | Yes.  Amici Curiae submitted by a number of NGOs including Environment Defenders Office (Australia), Indonesian Center for Environ-mental Law and Client Earth. | The plaintiffs assert that the EIA was flawed because it did not include a climate change assessment. This case was inspired by the *Earthlife* (South Africa) case and adopts similar arguments raised in *Earthlife*. |
| 9 | ***Sher Singh v State of Himachal Pradesh***  ***(Rohtang Pass case)***  (2014) | India | Court on its own motion | Government | No | The court ordered the state government and its agencies to undertake wide-ranging measures to remedy the pollution crisis that is causing glacier melt in Himalayas region. The court recognized that the main causes of pollution include black carbon, “believed to be biggest contributor to global warming after carbon dioxide.” |
| 10 | ***Pandey v. India*** (2017) | India | 9 year old resident of the State of Uttarakhand | Government | Yes.  Partnership with Our Children’s Trust. | The Applicant alleges that: (1) India is bound by a fiduciary duty under the Public Trust Doctrine and Intergenerational Equity Principle to mitigate climate change so as to protect natural resources for the benefit of current and future generations; (2) India has not made any effort to integrate its Paris Agreement obligations into its domestic law; (3) India’s existing environmental laws and climate-related policies require greater climate mitigation effort; and (4) the right to life under Art. 21 of the Indian Constitutionincludes the right to a healthy environment.  The plaintiff seeks a court order requiring the government to (1) include climate change considerations in the EIA process (2) prepare a national GHG emissions inventory (3) prepare a national carbon budget (4) develop and implement a time bound national climate recovery plan; and (5) create a committee to monitor and present quarterly compliance reports to the tribunal. |
| 11 | ***Karnataka Industrial Areas Development Board v. Sri C. Kenchappa & others***  (2006) | India | Farmers whose land had been acquired by the government. | Statutory Body  (Karnataka Industrial Areas Development Board (KIADB)) | No | This was a petition to the court to restrain KIADB from converting agricultural land to industrial use and that land in the green belt area should not be acquired and put to non-agricultural use, including industrial activity. The plaintiffs submitted that, apart from the economic hardship they would suffer, this conversion of land will lead to more industrial activity that will have adverse impacts on the environment. In his decision, Dalveer Bhandari noted the severity of climate change and its adverse impacts (para. 42 of judgment). |
| 12 | ***Manushi Sangthan, Delhi v Government of Delhi & others***  ***(Rickshaw* case)**  (2010) | India | Local NGOs | Government | No | This was a petition to the court seeking a declaration that the government’s decision to limit the number of rickshaw licenses was arbitrary. The petitioners stressed, *inter alia*, the importance of rickshaws as a low-carbon transportation option. |
| 13 | ***Indian Council for Enviro-legal Action (ICELA) v. Ministry of Environment, Forest and Climate Change and others (HFC-23 case)***  (2015) | India | Indian Council for Enviro-legal Action  (Local environmental NGO) | Government and chemical manufacturers | No | HFC-23 is a GHG. The defendant companies produce HCFC-22 as a refrigerant (and HFC-23 is a by-product of the manufacturing process). The plaintiff sought orders for the government to regulate and phase out the production of HFC-23, on the basis that India has ratified the Montreal Protocol and the Kyoto Protocol, and for the defendant companies to stop venting HFC-23. A large part of the judgment dealt with whether the tribunal had jurisdiction to hear this case as HFC-23 is not regulated by any of the laws listed in Schedule 1 of the National Green Tribunal Act 2010 (the statute that created the Tribunal). The Tribunal held that, as a GHG, HFC-23 “may be, or tend to be, injurious to environment” (Environment Protection Act 1986, which is in Schedule 1 of the NGTA). As such, the Tribunal had jurisdiction. The Tribunal ruled in favor of the plaintiff and ordered the government to issue measures to regulate HFC-23 pursuant to the Environment Protection Act. |
| 14 | ***Leghari v. Federation of Pakistan***  (2015) | Pakistan | Farmer | Government | No | Leghari brought his case before the court using public interest litigation. He submitted that climate change poses a serious threat to water, food and energy security in Pakistan, and therefore offended fundamental rights under the 1973 Constitution, including the right to life (Article 9) and the right to property (Article 23). Leghari further submitted that the state had failed to implement the country’s National Climate Change Policy 2012 and the Supporting Framework (2014-2030). The Court decided in favour of Leghari. Taking an activist approach, which has become a feature of Pakistani and Indian judicial law-making, the Lahore High Court designed judicially administered mechanisms for remedying the breaches. |
| 15 | ***Ali v. Federation of Pakistan***  (2016) | Pakistan | Rabab Ali  (7 years old) | Government | Yes.  Partnership with Our Children’s Trust. | Through her father and pro bono environmental lawyer Qazi Ali Athat, the plaintiff argues that through the continued exploitation of fossil fuels in Pakistan, particularly coal, Pakistan’s government is violating the public trust doctrine and the constitutional rights to life and a healthy environment. In June 2016, the Supreme Court overruled the registrar’s rejection on the petition and ruled that the lawsuit be allowed to proceed to the merits of her case. This case has not proceeded to trial as of October 2018. |
| 16 | ***Carbon Majors Petition***  (2016) | The  Philippines | Individuals, Greenpeace Southeast Asia and local NGOs | Global corporations | Yes.  Partnership with Our Children’s Trust. | This is a petition to the Human Rights Commission of the Philippines to investigate the responsibility of 47 global corporations for human rights violations or threats thereof resulting from the impacts of climate change. In December 2017, the Commission decided to investigate the petition. Investigations are currently underway. |
| 17 | ***Global Legal Action on Climate Change***  (2010) | The  Philippines | Global Legal Action on Climate Change (local NGO) | Government | No | This is a petition to the court to order the government to enforce the law to construct rainwater collectors in every village. The law had been not been enforced since it was passed. Petitioners argue that the proper enforcement of the law would significantly improve climate resilience. Flash floods and salinity intrusion are some of the impacts of climate change that Filipinos are already experiencing, and rainwater collectors will improve water management and flood control. A work plan was submitted to the Supreme Court and the defendant government departments signed a Memorandum of Understanding undertaking to carry out the construction works. The implementation of the work plan was subject to monitoring by the Supreme Court. |
| 18 | ***Victoria Segovia et al v. Climate Change Commission et al***  (2017) | The  Philippines | Individuals, including those who refer to themselves as Carless People of the Philippines. | Government  (Department of Transportation and Communications (DOTC) and the Department of Public Works and Highways (DPWH)) |  | The Framework Strategy on Climate Change and the Environmentally Sustainable Transport Strategy contain references to the “Road Sharing Principle”, i.e. that “Those who have less in wheels must have more in road”. The Petitioners argue that the governmental failure to implement the Road Sharing Principle has resulted in the continued degradation of air quality, particularly in Metro Manila. This is in violation of the petitioners’ constitutional right to a balanced and healthful ecology.  The court ruled that the petitioners failed to show that the defendants were guilty of any unlawful act or violation of environmental laws that constitutes a violation of their right to a balanced and healthful ecology. Specifically, the court emphasized that the petitioners were not seeking to compel the performance of an executive act but to implement a policy principle in accordance with their preferences. |
| **AFRICA** | | | | | | |
| 19 | ***Gbemre v Shell & others***  (2005) | Nigeria | Jonah Gbemre  (Represent-ative of local community in Niger Delta) | Nigerian Government; Shell company | No | The court ruled that gas flaring violates the right to life (including the right to a healthy environment). Further, the failure to conduct proper EIA is a clear violation of the EIA law, and that the provisions in existing laws that permit continued flaring are unconstitutional. |
| 20 | ***Earthlife***  (2017) | South Africa | Earthlife Africa Johannesburg  (NGO) | Government; Thabametsi Power Project (Pty) Ltd; Thabametsi Power Company (Pty) Ltd. | No.  Centre for Environ-mental Rights, an NGO that seeks to advance the constitutional right to environment in a number of policy areas, represented Earthlife in the appeal and subsequent court review proceedings. This is a South African NGO. | This was a judicial review application challenging the Department of Environmental Affairs’ decision to grant an environmental authorization for a proposed project when the EIA did not take climate change into account. The court was asked to determine whether under the *National Environmental Management Act 1998*, "relevant" considerations for the environmental review of plans for the new 1200 MW coal-fired Thabametsi Power Project must include the project’s impacts on the global climate and the impacts of a changing climate on the project. The court held that while the Act does not expressly contemplate climate change, based on constitutional and international legal obligations, climate change impacts are relevant factors that must be considered in the EIA. |
| 21 | ***Khanyisa Project***  (2017) | South Africa | National NGO: Groundwork | Government | No.  Earthlife South Africa is one of its partners. | Following the Earthlife decision, this is an application to South Africa’s High Court to review and set aside Ministerial approval to develop a coal-fired power plant (Khanyisa project) without considering climate change impacts and risks in the EIA. Decision pending. |
| 22 | ***KiPower***  ***Project***  (2017) | South Africa | National NGO: Groundwork | Government | No.  Earthlife Sough Africa is one of its partners. | Following the Earthlife decision, this is an application to South Africa’s High Court to review and set aside Ministerial approval to develop a coal-fired power plant (KiPower) without considering climate change impacts and risks in the EIA. Decision pending. |
| 23 | ***Kenneth Kakuru and Greenwatch v. Attorney General of Uganda***  ***(Ugandan Youths case)***  (2012) | Uganda | Local NGO (Greenwatch) filed on behalf of local youth plaintiffs | Government | Yes.  Partnership with Our Children’s Trust and other NGOs. | The complaint invokes a governmental public trust duty under Articles 39 and 237 of the Ugandan Constitution to protect atmospheric resources from climate change for the benefit of its people (and future generations). The court is invited to issue orders compelling the government to fulfill its international climate treaty obligations, conduct proper carbon accounting, and implement climate mitigation and adaptation plans. Since 2012, there have been procedural delays. There was a hearing scheduled on 27 June 2018 (High Court) where plaintiffs were expected to present evidence to make their case. A decision is still pending. |
| 24 | ***Save Lamu et al v. National Environmental Management Authority and Amu Power Co. Ltd.*** | Kenya | Local NGO and members of community affected by the development of the project | Government and Project Proponent | Yes | Kenya’s National Environmental Tribunal set aside the issuance of an EIA license to construct a coal-fired power plant on the basis, inter alia, that the EIA failed to consider climate change impacts and the Climate Change Act 2016. |
| **LATIN AMERICA** | | | | | | |
| 25 | ***Public Prosecutor’s Office v. Oliveira***  (2008) | Brazil | Public Prosecutor | Farmers | No | The Public Prosecutor brought enforcement proceedings (pursuant to the forestry law) to stop the use of burning in sugarcane harvesting practices. The Brazilian Superior Court of Justice considered, amongst other environmental impacts, the negative effects of carbon emissions. |
| 26 | ***Sao Paulo Public Prosecutor’s Office v. United Airlines & others***  (2014) | Brazil | Sao Paulo  Public Prosecutor | Seven international airlines using Sao Paulo’s international airport | No | The Public Prosecutor of Sao Paulo brought a group of cases seeking to compel airlines that use the Sao Paulo international airport to offset their carbon emissions. The court was asked to order the reforestation of lands around the airport to offset GHGs and other pollutants. The court rejected the suits on the ground that it lacked jurisdiction over the claims. |
| 27 | ***Maia Filho v. Federal Environmental Agency***  (2015) | Brazil | Individual | Government  (IBAMA – Federal Environmental Agency) | No | The Brazilian Superior Court of Justice upheld the imposition of a fine for burning 600 hectares of pasture to clear it for livestock grazing. In their opinion, the judges recognized that the restrictions on burning for agricultural purposes were justified in part by climate change considerations. |
| 28 | ***Public Prosecutor’s Office v. H Carlos Scheider S/A Comercio e Industria***  (2007) | Brazil | Public Prosecutor | Company | No | The Public Prosecutor filed civil proceeding against the company for draining and clearing a mangrove forest to build a landfill and various structures in its place. The trial court ruled in favor of the Public Prosecutor. Its decision was upheld on appeal to the regional court and the Superior Court of Justice. The appellate judgment noted that mangroves serve important environmental functions and sea level rise makes it especially important to preserve them. |
| 29 | ***Extraordinary Appeal to Declare the Unconstitut-ionality of Law Number 1.952***  (2015) | Brazil | Trade Unions  (Union of alcohol manufacturers and Union of Sugar producers in the state of Sao Paolo) | Municipal government | No | Unions sought to declare a legislation of the municipality of Paulinia, which prohibited intentional burning of sugarcane straw in its territory, to be unconstitutional. The first level court (Sao Paulo State Court) ruled in favor of the defendant. The state of Sao Paolo appealed to the Brazilian High Court, claiming that the municipal law harmed the state’s economy. The trade unions also presented similar appeals to the High Court. Decision reversed. |
| 30 | ***Protection of High-Altitude Ecosystem*** (2016) | Colombia | Individuals | Government | No | Constitutional Court struck down provisions in the laws that established Colombia’s National Development Plan that allowed infrastructure development that will threaten high altitude ecosystems known as “paramos.” The Court highlighted that, amongst other important ecosystem services, the paramos was an important carbon capture system. |
| 31 | ***Future Generations v***  ***Ministry of Environment***  (2018) | Colombia | 25 youths aged between 7 and 26 years (represented by Colombian NGO, Dejustica) | Government | Yes.  Dejustica states clearly on its website that it seeks to foster Global North and Global South collaboration through, for example, participation in transnational advocacy networks. | Plaintiffs alleged that climate change, along with the government’s failure to reduce deforestation and ensure compliance with a target for zero-net deforestation in the Colombian Amazon by the year 2020, (as agreed under the Paris Agreement and the National Development Plan 2014-2018), threatened plaintiffs’ fundamental rights. The Lower Court ruled against the plaintiffs. Supreme Court reversed the lower court decision, recognizing that fundamental rights of life and human dignity are linked to the environment. The Supreme Court also recognized that the Amazon is a “subject of rights.” Ordered the government to implement action plans to reduce deforestation in the Amazon. |
| 32 | ***Advisory Opinion on the Constitutionality of bilateral treaty***  (2013) | Ecuador | - | - | No | The Constitutional Court held that the bilateral treaty on climate change, biodiversity and sustainable development between Ecuador and Peru is constitutional but must receive Parliamentary approval. |
| 33 | ***Advisory Opinion on the Environment and Human Rights***  (2018) | Inter-American Court of Human Rights (IACHR) | - | - | No | In this Advisory Opinion, the court recognized an “independent” right to a healthy environment that is justiciable under Article 26 of the American Convention (Progressive Development). This gives rise to the possibility that environmental harm could be justiciable without evidence of harm to human individuals. |
| 34 | ***Barrick and Exploraciones Mineras Argentinas SA v. Argentina***  (2019) | Argentinian Supreme Court | Mining companies; Barrick and Exploraciones Mineras Argentinas SA, concession-aires of the Pascua Lama mine | Government | No | The mining companies alleged that certain articles of the Glacial Protection Law (Law 26, 639) are unconstitutional because, inter alia, the law infringes upon provincial autonomy in environmental law and governance. In addition, the law adversely affects their rights to explore and mine gold. The court ruled that Article 41 of the National Constitution (right to healthy environment) and Article 124 (states that provinces have domain over their natural resources) must be interpreted in such a way as to combine the national and provincial interests to promote environmental protection. Glacial protection is deemed highly important from the perspectives of biodiversity protection, ecosystem protection and climate change. The court refers to the Paris Agreement and the Sustainable Development Goals. The court held that the mining companies had not proven that there has been regulatory activity by national authorities that has adversely affected their legitimate interests.  The court upheld the Glacial Protection Law. |
|  | **PACIFIC** | | | | | |
|  | No cases yet but there have been cases involving Pacific Island citizens seeking asylum in New Zealand on environmental grounds. The *Micronesia v the Czech Republic* case is also notable. See Table 2 below. | | | | | |

Table 2: Cases involving Global South plaintiffs in Global North courts

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| **Case/**  **Year** | | **Jurisdiction** | **Plaintiff(s)** | **Defendant(s)** | **Global North/South NGO(s) partner** | **Summary of Facts** |
| 1 | ***Lliuya v RWE***  (2015) | Germany | A Peruvian farmer, Mr Saúl Luciano Lliuya | German energy utility, RWE | Lliuya receives support from a German NGO known as Germanwatch. | Lliuya filed a lawsuit against RWE in the Regional Court in Essen, Germany. Mr Lliuya claims that the significant GHG emissions from RWE’s coal-fired power plants cause climate change that threatens his family, his property and his home town of Huaraz, Peru that lies in the valley at the base of glacier-covered mountains. RWE has disputed responsibility for climate change-induced damage in the Peruvian Andes mountains and has questioned whether Huaraz faces any actual flooding risk. In November 2017, following Mr Lliuya’s appeal of the Regional Court’s decision dismissing his claim, the Oberlandesgerichsthof (Higher District Court) of Hamm determined that the case could go forward to the evidentiary stage. The court will hear the parties’ evidence and arguments in coming months. |
| 2 | ***Carvalho & others v Parl-iament & Council***  ***(People’s Climate Case)***  (2018) | European General Court | Families and youth from Europe, Kenya and Fiji | European Parliament and the Council of European Union (EU) | German NGO, Protect the Planet, is bearing all the legal costs. Climate Action Network, Europe’s largest coalition of NGOs working on energy and climate issues, also provides support. | The Plaintiffs asked the court to mandate that the European Parliament and the EU Council take more stringent climate mitigation measures to protect their fundamental rights of life, health, occupation and property. One of the grounds raised by the plaintiffs is that the European Unions’s 2030 climate target to reduce GHG emissions by 40% by 2030 is insufficient on the basis of the Paris Agreement.  On 8 May 2019, the court ruled against the plaintiffs. The court found that the applicants had not established that the contested provisions of the legislative package infringed their fundamental rights. In paragraph 50, the court ruled that while it is true that every individual is affected by climate change and this is recognised by the EU and its member states, this fact alone does not mean that “there exists standing to bring an action against a measure of general application”. On 11 July 2019, the plaintiffs filed an appeal to the European Court of Justice. |
| 3 | ***In re: AD (Tuvalu)***  (2014) | New Zealand | Family from Tuvalu | Appeal before the Immigration and Protection Tribunal | No | A family from Tuvalu appealed after they were denied New Zealand resident visas. The family argued, inter alia, that they would be at risk of suffering the adverse impacts of climate change if they were deported to Tuvalu. Tribunal allowed their appeal but explicitly declined to reach the question of whether climate change provided a basis for granting residents visas. It did recognize that climate change may affect the enjoyment of human rights. |
| 4 | ***Ioane Teitiota v Chief Exec-utive of the Ministry of Business, Innov-ation and Employ-ment***  (2015) | New Zealand | A Kiribati citizen | New Zealand government |  | The applicant appealed the denial of refugee statue in the High Court. He argued that the effects of climate change on Kirabati, namely rising ocean levels and environmental degradation, are forcing citizens off the island. The High Court found that the impacts of climate change on Kirabati did not qualify the appellant for refugee status because the applicant was not subjected to “persecution” as required for the 1951 United Nations Convention relating to the Status of Refugees. The applicant appealed the decision to the Court of Appeals. In dismissing the application, the Court of Appeals noted the gravity of climate change but stated that the Refugee Convention did not appropriately address the issue. The applicant appealed to the Supreme Court. The Supreme Court affirmed the lower courts’ conclusions. |
| 5 | ***Micro-nesia v the Czech Republic***  (2009) | The Czech Republic | Federated States of Micronesia  (FSM) | Government of the Czech Republic | Greenpeace provided assistance to FSM. | Climate change was a core issue in FSM’s submissions. FSM argued, *inter alia*, that the EIA for the proposed rebuilding of Prunerov II, a lignite-fired power plant, failed to consider the climate change impacts of Prunerov II and evaluate alternatives. FSM brought a claim under Article 3 of the EC Directive 85/337 and corresponding Czech law, requesting a Transboundary Environmental Impact Assessment (TEIA) to be done. Although FSM is not an EU member, Greenpeace argued that unlike the EC Directive, the Czech EIA law includes within its ambit states outside the EU. On 26 January 2010, the Czech Environmental Minister announced that the government will request an independent assessment of the planned expansion of Prunerov II. However, FSM’s concern that the initial EIA failed to assess climate effects of Prunerov II was not addressed. |