

# Climate Change Litigation Initiative

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C<sup>2</sup>LI is a platform which allows users to explore three scenarios in over 30 countries. It provides information focusing on standing, grounds and remedies. It also refers to cases not specifically about climate change that may be relevant for future climate cases around the three C<sup>2</sup>LI scenarios.

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**01**

CASES AGAINST THE  
STATE

CHALLENGING NATIONAL  
CLIMATE POLICY

**02**

CASES AGAINST THE  
STATE

PROJECT-SPECIFIC LITIGATION

**03**

CASES AGAINST  
PRIVATE ACTORS

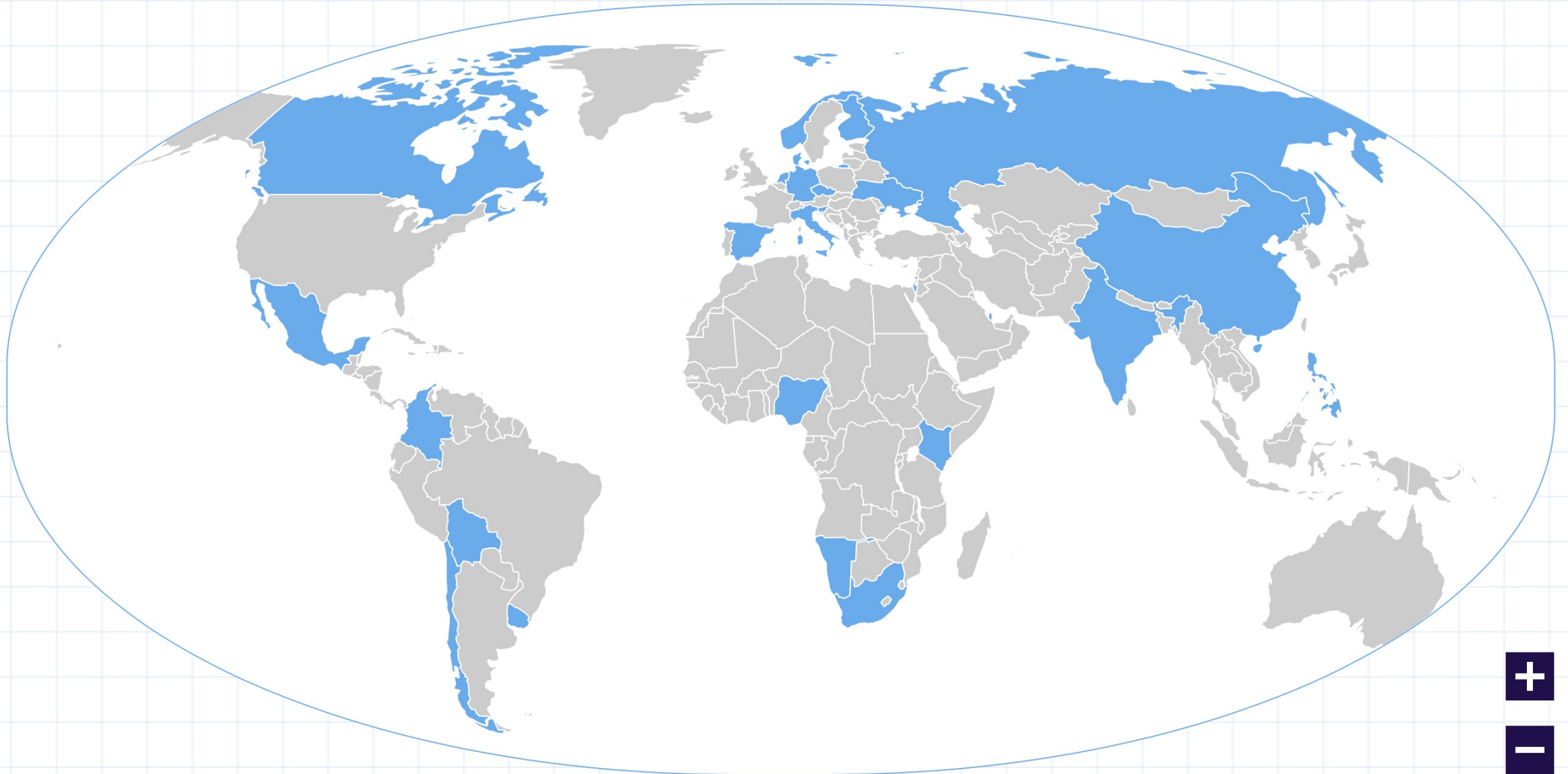
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## Scenario 1



Marjan Minnesma (2R), director of environment NGO Urgenda, hold banners outside the Supreme Court prior its ruling in the Urgenda case on December 20, 2019 in The Hague. – The Dutch supreme court on December 20, 2019 ordered the government to slash greenhouse gases by at least 25 percent by 2020 in a landmark case brought by Urgenda environmental group. (Photo by Sem VAN DER WAL / ANP / AFP) / Netherlands OUT (Photo by SEM VAN DER WAL/ANP/AFP via Getty Images)

A plaintiff considers that their State is breaching the law by having an overall climate policy that is not ambitious enough to mitigate and/or to adapt to climate change.

With less than ten years to avoid the most dangerous consequences of climate change, States need to take ambitious action to cut GHG emissions and to adapt to climate change. For those countries who have signed up to the Paris Agreement, developing an ambitious climate plan is not an option, it is a legal obligation under international law. Plaintiffs may argue that the level of ambition put forward in such national climate law and policies is not high enough and may resort to the courts to request for more domestic climate action. Cases following under this scenario have increased over the past five ten years and have been argued on many different grounds.

C2LI explores this scenario by highlighting, where possible issues of standing, grounds and remedies in the countries that have experienced the scenario, but also within countries where such a scenario is a possibility. The [Urgenda case](#) in the Netherlands is a typical example of a climate case that falls under scenario 1.

## Scenario 2



In addition to challenging a national climate law or policy as a whole, plaintiffs may consider that specific projects authorised by the government could lead to an unlawful increase in GHG emissions or to maladaptation. Projects within this scenario could be new runways within an airport, new coal power plants or, from an adaptation perspective, a flood defence programme that does not meet the necessary standards. Cases under this scenario have a longer history and are often argued (also) on procedural grounds, such as the lack of a necessary EIA or lack of adequate public participation. However, different and more novel arguments are also brought to the attention of the Courts. Cases are usually brought seeking an injunction relief to prevent the project from construction in the first place or to stop it before it starts operating. In other instances, cases are brought to make the projects more effective, especially when it comes to adaptation related projects. C2LI explores this scenario by highlighting, where possible issues of standing, grounds and remedies in the countries that have experienced this scenario, but also within countries where such a scenario is a possibility. The [EarthLife case](#) in South Africa is a typical example of a climate case that falls under scenario 2. to add text

## Scenario 3



Friends of the Earth supporters unfold a banner outside the district court in The Hague, Jan. 29. Photographer: Mike Corder/AP

A plaintiff considers that a private actor is breaching the law by carrying out operations that contribute negatively to climate change.

The first two C2LI scenarios fall broadly in the sphere of what can be called “public climate change litigation” directed towards the State as a whole or a government entity. The third scenario falls into what can be termed as “private climate change litigation” and it includes cases brought against companies operating within carbon intensive sectors for their contribution to climate change. The third scenario, however, can also include cases against those organisations who invest in the operations of the carbon intensive sector. Cases falling under this scenario are rarer, but we are starting to see a rise in their numbers from different jurisdictions. Plaintiffs will bring these cases on a number of different grounds and will be usually seeking not only to halt the operations of the company, but also the award of damages (ie monetary compensation).

C2LI explores this scenario by highlighting, where possible issues of standing, grounds and remedies in the countries that have experienced this scenario, but also within countries where such a scenario is a possibility. The [McVeigh case](#) in Australia and the Shell case in the Netherlands are examples of a climate case that falls under scenario 3.

A plaintiff is “[a person who makes a formal complaint against somebody in court](#)”. C2LI focuses its attention on cases brought forward by an individual, group of individuals or non-governmental organisations. We are aware that there may be other plaintiffs who could make formal complaints within the three C2LI scenarios. We will do our best to include them in the initiative going forward.

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**Country:**

Select or type



**Scenario:**



**01 - Cases Against the State**  
Challenging National Climate Policy

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**02 - Cases Against the State**  
Project-Specific Litigation

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**03 - Cases Against Private Actors**

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Although these summaries aim to be as complete and current as possible, new case developments are ongoing across jurisdictions and may not be completely captured by the summaries.



Country:

Kenya ✕



Scenario:

Select or type



KENYA

**01 - Cases Against the State**  
Challenging National Climate Policy

**An individual challenging the State for ineffective climate action.**

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KENYA

**02 - Cases Against the State**  
Project-Specific Litigation

**An individual challenging her government for authorising a specific project that leads to increased emissions or ineffective adaptation.**

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KENYA

**03 - Cases Against Private Actors**

**An individual challenging a private actor for operations that allegedly lead to more climate change.**

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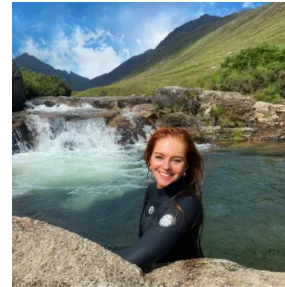
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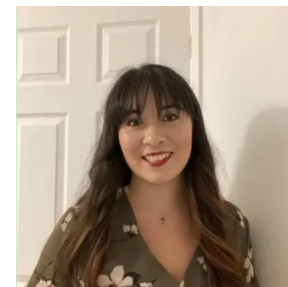
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**Catherine Hall**

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SENIOR RESEARCH ASSISTANT

**Hayley-Bo Dorrian-Bak**

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