C40 CITIES

LEGAL INTERVENTIONS: HOW CITIES CAN DRIVE CLIMATE ACTION

July 2021

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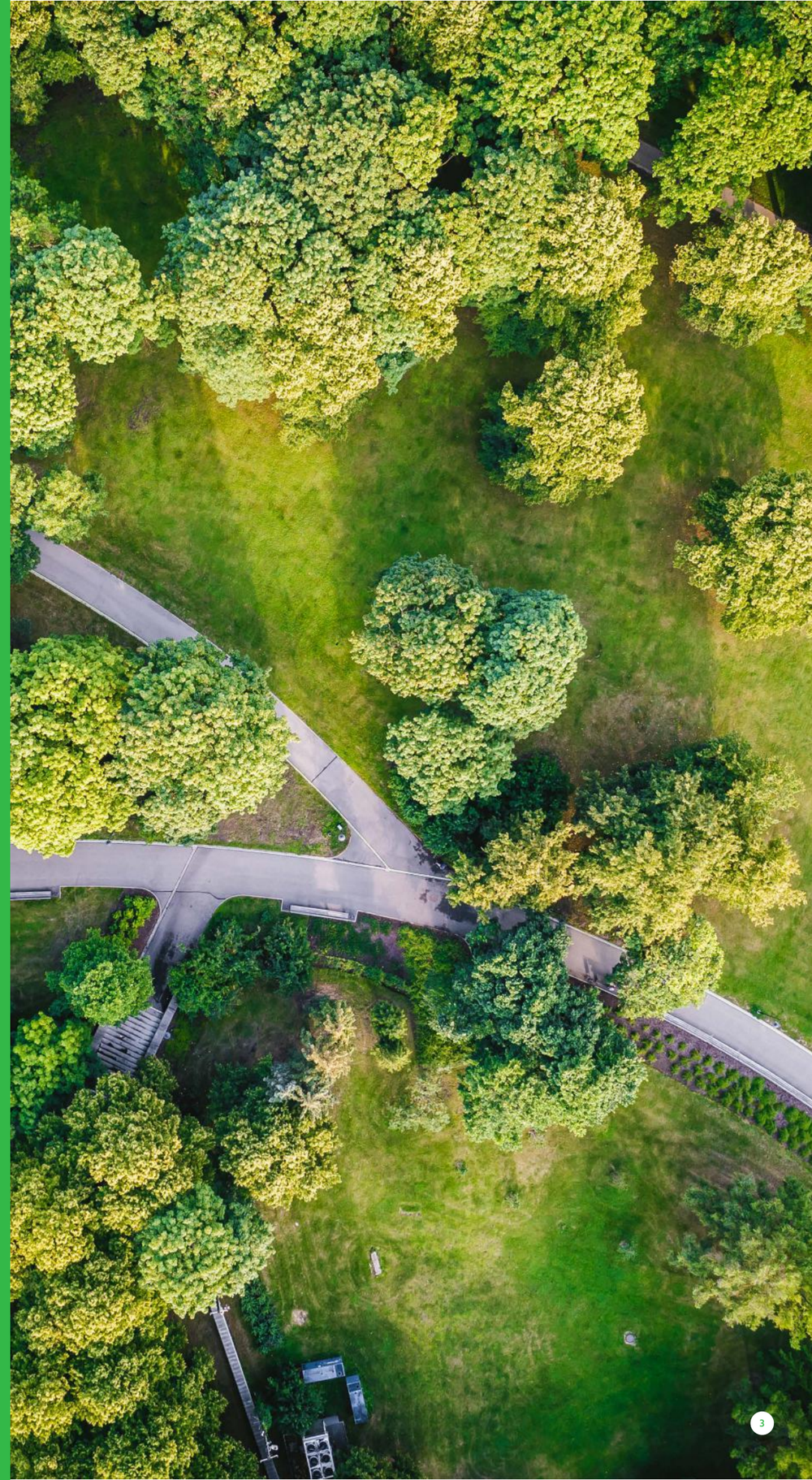


GLOSSARY

Amicus curiae A 'friend of the court'; a person, entity or organisation that is not party to a case, but assists the court by providing information, assistance or expertise that has a direct bearing on the case.

Appellate court Commonly referred to as an appeals court or court of appeal. Also known as a court of second instance. A court responsible for hearing appeals of rulings made in legal cases in trial courts or lower courts in a judicial system.

Balance or separation of powers The differentiation of powers accorded to a country's legislative, executive and judicial systems.

Bylaw (UK, Canada) A regulation made by a local authority or corporation.

Causation A means of showing that a defendant's actions led to or caused a certain end result.

Circuit court (US) An intermediate appellate court of the US federal judiciary. The courts are divided into 13 circuits and hear appeals from district courts withing those areas, as well as from certain federal courts and administrative agencies.

Civil code A codification of private law pertaining to property, family and obligations.

Civil law A principle-based legal system originating in Continental Europe, currently used in all EU countries, except Ireland and Cyprus, for example.

Common law A precedent-based legal system originating in mediaeval England, currently used in the UK and US, for instance.

Constitutional law A body of law stemming from a country's constitution or basic law, which sets out the fundamental principles on which a country is governed and the basic rights of its citizens.

Court of appeal See appellate court.

Competency (of a court) The authority of a court to hear a certain case or take a certain action.

Declaratory relief Also known a declaratory judgment. A legally binding, court-issued judgment that sets out the rights and obligations of all parties to a contract.

Defendant A party against whom a judgment is being sought in a civil case or accused of committing a crime in a criminal prosecution.

Determination A decision reached by a court on a judicial matter.

District court (US) General trial courts of the US federal judiciary, hearing both civil and criminal cases.

Duty of care A legal obligation to ensure the safety or wellbeing of others.

Enforceable right or obligation Legally recognised rights and obligations that can be remedied by law or compelled by the courts.

Express warranty A spoken or written promise made by a seller to a buyer on the nature, performance, purpose, quality, state or use of an item.

Fiduciary duty Usually financial. The obligation of a person who holds a legal or ethical position of trust to one or more parties to ensure that they act in the best interests of those parties, rather than themselves.

In re In the legal case of.

Injunctive relief A court order compelling a party to undertake or refrain from certain acts.

Interested party See amicus curiae.

Intervenor (US) An individual who is not party to an existing lawsuit, but who makes themself a party by joining with the plaintiff or the defendant.

Judgment A decision of a court in relation to the rights and liabilities of parties in a legal action or proceeding.

Judicial review A process by which an application can be made to a higher court to review the decision-making processes of a lower court, tribunal or administrative body.

Jurisdiction (area) A region with a set of laws subject to a particular judicial system or government entity.

Jurisdiction (scope) The practical authority granted to a legal body to administer justice, based on the type of case and/or location of the issue.

Litigant A person or party involved in a lawsuit.

Litigation The process of taking legal action.

Negligence A breach of duty of care, resulting in damage or harm.

Non-justiciable question A matter on which a court cannot make a decision.

Nuisance Actions that are harmful to others or interfere with their rights.

Petitioner A person who makes a formal application to a court for a decision.

Plaintiff Also called a claimant. A party who initiates a lawsuit before a court.

Proceedings A lawsuit. All or part of a case heard by a court, authority or judicial body. Any steps or actions taken on the orders of a court or agency. Any measures required to prosecute or a defend a legal action.

Public nuisance An illegal act that interferes with the rights of the general public.

Public trust doctrine The principle by which a sovereign or state holds in trust designated natural resources for the benefit of the people.

Public Utility Commission (US) In the US, a governing body that regulates the rates and services of a public utility, such as an electricity provider.

Remedy Also known as legal remedy or judicial relief. The means with which a court of law imposes a penalty, enforces a right or orders compensation to right a wrong or compensate for harm.

Standing The ability of a party to demonstrate sufficient connection to or harm from a law or action to support their participation in a legal case challenging that law or action.

Stretch code (US) A locally mandated code or alternative compliance pathway that is more stringent than the basic building code, aimed at achieving greater energy savings.

Substantive due process (US) A principle allowing courts to protect certain fundamental rights from government interference, even if procedural protections are present or if the rights are not specifically mentioned elsewhere in the US Constitution.

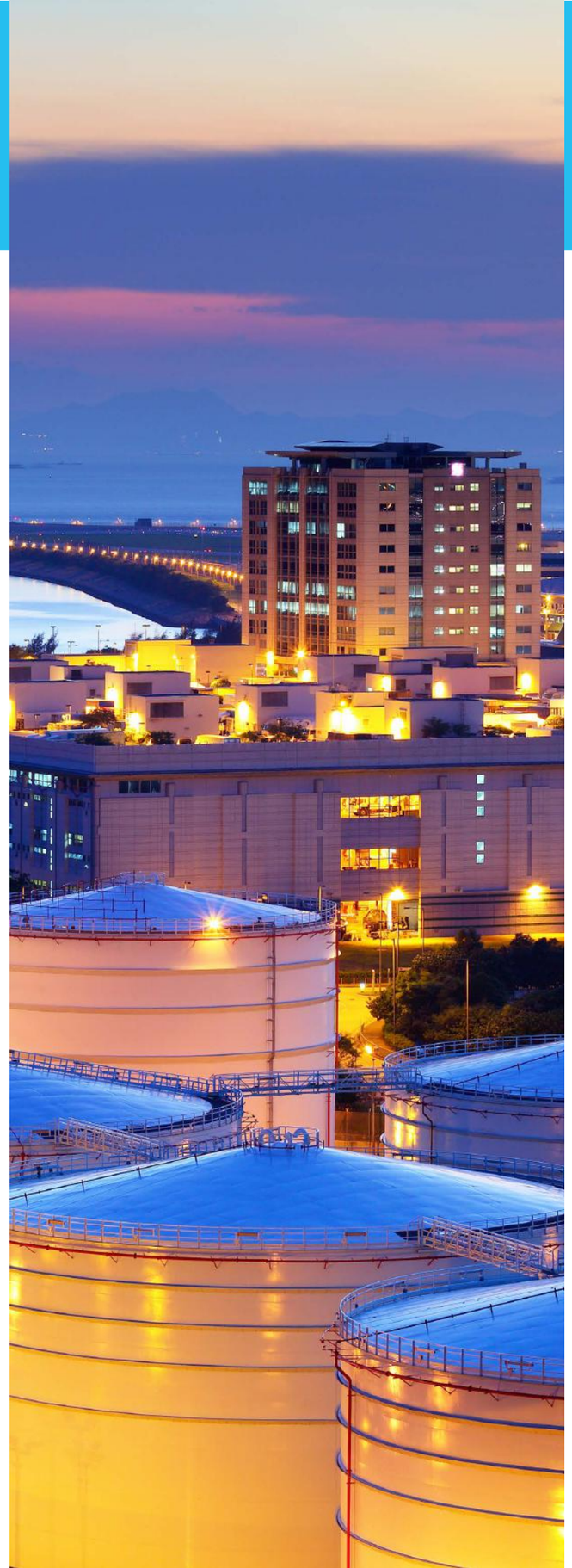
Supreme court The highest court in a judicial system.

Tort A wrongful act (other than breach of contract) that causes a plaintiff or claimant to suffer loss or harm.

Tortious claim A claim for wrongful or unlawful injury or damage that is not the result of a criminal act or that is filed in civil court.

Trial court (US) See district court (US).

Tutela A special constitutional claim or injunction in Colombia.



ACRONYMS

ANPS Airports National Policy Statement

BP British Petroleum

C&T Cap and trade

DoE Department of Energy

EIA Environmental impact assessment

EPA Environmental Protection Agency

EU European Union

FFT Fossil-fuel terminal

GHG Greenhouse gas

ICE Internal combustion engine

IPP Independent power producer

KCC Kansas Corporation Commission

LIFE Legal Initiative for Forest and the Environment

LUBA Land Use Board of Appeals

NEC National Emission Ceilings (Directive)

NERSA National Energy Regulator of South Africa

NGO Non-governmental organisation

NRDC Natural Resources Defense Council

OECD Organisation for Economic Co-operation and Development

PUC Public Utility Commission

SUV Sport utility vehicle

TMA Tokyo Metropolitan Assembly

UK United Kingdom

ULEZ Ultra-low-emission zone

UNESCO United Nations Educational, Scientific and Cultural Organisation

US United States

VW Volkswagen

EXECUTIVE SUMMARY

This report examines three categories of legal intervention: litigation, legal reform initiatives and ground-breaking policies or legislation by city governments

Cities are taking bold climate action, but the world is not on track to limit global heating to 1.5°C

Around the world, city governments are implementing actions to reduce greenhouse gas (GHG) emissions and pursuing adaptation measures to protect citizens from the unavoidable impacts of climate change. C40 cities are at the forefront of this global movement of urban climate action.

Recent research shows that GHG emissions from cities could be reduced by almost 90% by 2050 using technically feasible, widely available mitigation measures. City governments cannot deliver this mitigation potential on their own, however.[1] Ambitious urban climate policy is often constrained or blocked by laws and regulations at other levels of government. According to the Coalition for Urban Transitions, national and state governments have primary authority over 35% of urban GHG mitigation potential (excluding the decarbonisation of electricity).[2] Action by national and regional governments and the private sector is, therefore, critical to delivering cities' full emissions reduction potential, but current actions and targets fall far short of what is needed.

Legal interventions offer cities a powerful tool for unlocking climate action

In this context, legal interventions provide opportunities for C40 cities to challenge and remove barriers to climate action, to form local, regional and global climate coalitions and to use the signalling impact of collective urban legal action to bring about transformational change.

This report examines three categories of legal intervention: litigation, legal reform initiatives and ground-breaking policies or legislation by city governments. Cities can use these legal interventions to remove barriers, enabling them to undertake more ambitious climate action and empowering other cities in the same jurisdiction that face similar legal hurdles. They can allow mayors to tackle key emission sources beyond their remit, either by helping city governments to obtain the powers they need to do so or by acting as the mechanism through which cities influence national or regional government policy or corporate activities.

TABLE 1: TYPES OF LEGAL INTERVENTIONS FEATURED IN THIS REPORT

LEGAL INTERVENTION	EXAMPLES
Pioneering policies Innovative urban policies or legislation that require the navigation of significant legal hurdles, test the scope of the city's authority, or may result in a legal challenge, requiring the city to defend its policy in court	Paris pedestrianised a stretch of the Right Bank of the river Seine and defeated a court challenge Portland passed a city ordinance that banned the expansion of fossil-fuel terminals and defeated a court challenge
Legal reform Strategic engagement with government departments and agencies or campaigns to reform laws and regulations	Krakow obtained an amendment to national law that allowed the city to ban solid fuel for domestic heating
Affirmative litigation against governments or public agencies (national or regional/state)	London brought a lawsuit against the expansion of Heathrow Airport Los Angeles, New York City, Philadelphia and Chicago were part of a coalition of US cities and states that challenged the federal government's changes to emission regulations for coal-fired power plants
Affirmative litigation against corporations	Five US states and 19 municipalities (including New York City and San Francisco) have been involved in suing fossil-fuel majors for climate damages 14 French local authorities and several NGOs are taking legal action against carbon major, Total

How cities can use legal actions to address climate change

Each city will make its own assessment when determining whether to pursue a legal intervention, but there are many compelling reasons for cities to consider taking action.

Ambitious urban climate policy may be constrained or blocked by laws and regulations at another level of government. To make progress, a city may need to innovate to develop laws or programmes that achieve policy goals without running afoul of applicable law. Introducing innovative climate-related policies that go further than existing regional or national policies on a specific issue, or that open up an entirely new area of urban policymaking, is likely to require additional legal analysis to determine what is feasible. In some cases, it may require the city to defend the policy in the courts. Such pioneering policies show bold mayoral leadership and can pave the way for other cities to implement similar measures.

City governments can also bring leadership to issues of legal reform at a regional or national level. Mayors can actively collaborate, advocate and make proposals for such legal reform in order to remove current barriers to urban policymaking aimed at mitigation and adaptation, and to amend laws and policies that are hindering a country's progress towards achieving the goals of the Paris Agreement.

Cities may also want to take legal action to influence the national or regional regulatory landscape or policy decisions. In a number of cases, cities have taken legal action to prevent a regional or national rollback of existing climate-related policies, such as vehicle emission standards or energy efficiency regulations, that would negatively impact urban residents and affect the city's ability to reduce urban emissions and meet its climate targets. City administrations can challenge environmental review and permitting processes at other levels of government to prevent the construction of infrastructure such as coal-fired power plants or natural gas facilities that would lock in carbon emissions for decades to come.

Cities may also consider challenging corporate practices that contribute to climate change and negatively impact urban areas by fuelling increasingly hazardous and costly local climate impacts. A city government can bring a lawsuit against a specific company or companies to seek damages or, as a shareholder, can propose or co-file shareholder resolutions seeking to compel a company to set more ambitious climate targets.

The successful use of legal interventions to remove a barrier to climate action can have implications well beyond city limits, paving the way for other cities in the same jurisdiction to follow suit and creating useful lessons for cities across the country and beyond.

Legal action can provide the means to build a wider local and global coalition by connecting with citizen groups, NGOs, businesses and other governments

TABLE 2: HOW CITIES CAN USE LEGAL ACTION

OBJECTIVE	EXAMPLES
Strengthening national climate action	In the US, a coalition of states and cities successfully brought a case against the Environmental Protection Agency, forcing it to start regulating CO_2 and other GHGs as pollutants. In the Netherlands, an NGO and 900 citizens sued the Dutch government over its GHG emission reduction goals. The court agreed that the government should increase these goals and, in April 2020, the Dutch government announced a package of measures to comply with the court ruling amounting to around EUR 3 billion of government spending.
Addressing failure to implement or enforce government policy	In India, an NGO took legal action to ensure the enforcement of pollution standards for coal power plants. In the UK, an NGO, supported by the Mayor of London, won three cases against the UK government in relation to its failure to tackle air pollution in accordance with its obligations under EU law.
Preventing deregulation or the weakening of existing regulations	In the European Union (EU), the Mayors of Paris, Madrid and Brussels successfully took action against the European Commission to prevent the weakening of vehicle emissions standards. In the US, a coalition of states and cities including Los Angeles, New York City and San Francisco challenged a change to federal regulations that weakens vehicle emission standards. Another coalition of states, together with New York City, won a case against the US Department of Energy over its failure to announce energy efficiency standards for certain appliances.
Challenging planned fossil-fuel extraction and infrastructure projects	In South Africa and Kenya, NGOs have challenged the environmental authorisations for coal power plants on the basis that the impact assessments had not been properly carried out. In both cases, the court agreed that the assessments had not adequately considered climate change.
Changing national or regional laws	In Poland, the city of Krakow, together with a coalition of NGOs, led an advocacy campaign that resulted in a change to national environmental law. This amendment made it possible for the city to introduce a ban on the burning of solid fuels for heating.
Influencing corporate activities	In the US, 19 local governments, including New York City and San Francisco, have taken a number of legal actions against fossil-fuel companies, alleging that they are liable for climate change damages based on a number of common law and statutory theories. In France, more than a dozen local governments and several NGOs are seeking a court order that would force French oil and gas company Total to develop a corporate strategy that covers climate risks resulting from the use of Total's products and services. The plaintiffs also request that the carbon major set out a company climate trajectory compatible with the goals of the Paris Agreement.
Clarifying powers available to cities	As part of the mayors' commitments to ensure new buildings are net zero carbon by 2030, the cities of Tshwane, Johannesburg, Cape Town and Durban have been assessing the legal feasibility of implementing more stringent building energy efficiency requirements through municipal by-laws going beyond what is required by the national building regulations, considering their constitutional mandate to do so. Also in South Africa, after negotiations proved unfruitful, the Mayor of Cape Town initiated a lawsuit against the Minister for Energy seeking the right for Cape Town to procure electricity from independent power producers.

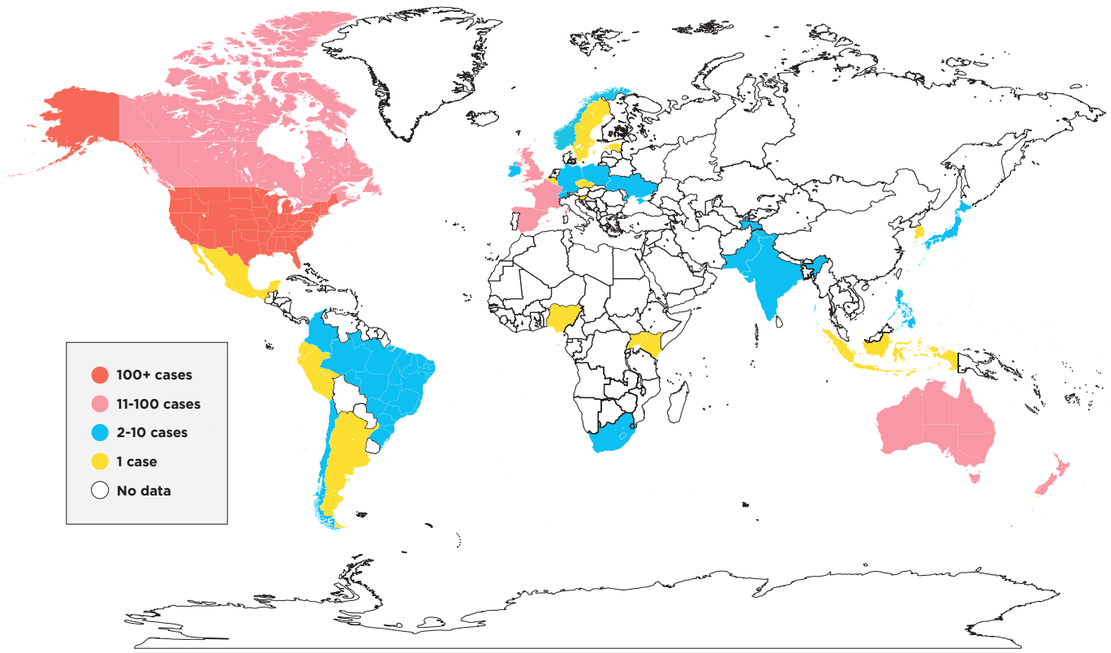
An opportunity to join a growing movement for change

The scale and scope of climate litigation continues to increase, with more than 1,800 cases filed in at least 40 countries.[3] At the same time, the number of climate-related laws and policies globally is also increasing. This creates scope for legal interventions in instances where such laws and policies are not fully implemented or enforced, or where there is a conflict between a government's climate commitments and other laws, policies or projects.

The growing global movement of climate litigation aims to tackle insufficient climate action by governments and corporations, force an increase in mitigation and adaptation activities and challenge continued support for polluting industries and activities. Plaintiffs can also use such litigation to try to generate and influence broader political and public debate, drawing attention to the consequences of a lack of climate action and various actors' responsibility for addressing climate change.[4]

Climate litigation has recently seen some significant victories, such as *Urgenda Foundation v. Kingdom of Netherlands*,[5] a case in which plaintiffs successfully forced the Dutch government to adopt stricter emissions reduction targets, and *Leghari v. Federation of Pakistan*,[6] in which the plaintiff used the courts to hold the national government of Pakistan to its statutory and policy commitments. While plaintiffs in climate lawsuits face a number of hurdles, different arguments are being tested in the growing body of cases, allowing plaintiffs to learn from strategies used elsewhere. Advances in climate science are also strengthening the evidentiary basis for claims.[7]

In addition to strategic public and private litigation focused on climate change accountability, there are also numerous examples of lawsuits that incorporate climate arguments or have a bearing on mitigation and adaptation goals. Cities are already playing a major role in many such cases.



CLIMATE LITIGATION: NUMBER OF CASES AT THE END OF MAY 2021

Map based on data from the Climate Change Laws of the World (CCLW) database and the US Climate Litigation Database and reproduced with the authors' permission from: Setzer J and Higham C (2021) Global trends in climate change litigation: 2021 snapshot. London: Grantham Research Institute on Climate Change and the Environment and Centre for Climate Change Economics and Policy, London School of Economics and Political Science. Available here.

Cities can play a powerful role in legal action

Cities represent the interests of hundreds of thousands – in some cases millions – of urban citizens affected by climate change, pollution and environmental degradation. Cities also own and control a range of key infrastructural assets within a well-defined geographical area that are, or will be, impacted by climate change. City participation in legal action can, therefore, send a strong political message. Cities may also have a different standing in court to other actors, such as non-governmental organisations (NGOs) or citizens, which can open up new avenues for legal action. Furthermore, cities often have access to data that could be useful to a case, such as how city infrastructure is, or is likely to be, impacted by climate change, the associated costs of adaptation measures, the level of air pollution caused by motor vehicles entering the city centre and how that pollution affects residents' health and wellbeing.

The impact of collective action

Bringing legal action is often a collaborative effort. In many cases, a city government may prefer to bring a lawsuit together with other cities and/or other actors, or to join an action initiated by others. Cities can also assist in a case by providing supporting evidence as an *amicus curiae* or 'interested party', meaning they can contribute without being a party to the case. Such support usually takes the form of additional evidence or arguments that reflect the city's interest in the outcome of the case and serve to reinforce the arguments made by the plaintiff or defendant.

Cities in a particular region or country can support each other by collaborating on a legal action or by separately challenging multiple legal barriers in a number of sectors (such as energy, transport, buildings and waste) in a way that enables further climate action by other cities. Such cumulative efforts send a strong signal to regional and national governments that cities do not accept continued delays to climate action.

Legal action can provide the means to build a wider local and global coalition by connecting with citizen groups, NGOs, businesses and other governments that are motivated to change the status quo by collaborating with or supporting cities on litigation, legal reform campaigns or bold urban policymaking. A high-profile court case, for example, could catalyse engagement with the wider climate agenda, locally and globally, encouraging stakeholders to consider their own role in bringing about transformational change and creating greater demand for government and corporate accountability.

TABLE 3: KEY TAKEAWAYS

- **The scope of climate legal action is large.**
- **Climate legal action is on the rise, opening up new opportunities for cities.**
- **Different types of legal intervention are available depending on what cities want to achieve.**
- **Cities are well placed to take action.**
- **Legal interventions enable cities to challenge and remove barriers to climate action.**
- **A climate legal intervention by one city can help many cities.**
- **Knowledge sharing and connecting with experts in climate legal action can help cities to go further.**
- **City legal action can send a powerful political message.**
- **Cities can play a leading or supporting role.**
- **Collective legal action can lead to even greater impact.**

INTRODUCTION

Purpose and scope of this report

This report aims to serve as a useful resource for policymakers and lawyers in city governments by illustrating how legal interventions can help cities to achieve their climate goals and play a critical role in shifting the world onto a sustainable pathway. The report illustrates a range of strategies available to cities, highlighting examples of the many types of legal intervention already being pursued by cities globally and others where there is potential for cities to play a powerful role in the future.

The report focuses on legal interventions aimed at reducing GHG emissions from the energy, transport, building and waste sectors, which are some of the biggest contributors to urban emissions. It looks at cases brought by cities aimed at holding major fossil-fuel companies accountable for their historical contributions to climate change and seeking damages to fund costly adaptation measures. It also includes cases on ambient air pollution, another major concern that city governments are working to address, as it can have serious impacts on health and quality of life and was associated with about 4.1 million deaths in 2019.[8] Many actions that are critical to addressing climate change, such as decarbonising the grid and shifting to clean transport, industry and buildings, can also have substantial air quality and health benefits.[9]

This report is not intended to serve as a guide to legal action in a particular jurisdiction, but rather to provide examples from different parts of the world that may be relevant elsewhere, or which can serve as inspiration for similar actions. To determine whether a specific legal intervention can be undertaken by a city, that city will need to conduct an independent legal analysis. Learning from other city governments and organisations that have successfully taken action in the same area can help a city to understand what is possible and how it can be achieved.

The majority of the litigation examples featured in this report are from the US and Europe, as a high proportion of the climate-related lawsuits against both governmental and corporate actors have been filed in these regions. However, cases are increasingly being brought in the Global South. A number of cases in low- and middle-income countries have had successful, innovative outcomes and may influence future litigation.[10] We cite relevant examples in this report.

Structure and outline of the report

This report is divided into five parts, covering key issues to consider in relation to climate change litigation, public litigation to increase action on climate change and air pollution by other levels of government, strategic engagement with governments, private litigation for corporate accountability, and ground-breaking policies by city governments.

Featuring examples from many different jurisdictions and a range of sectors, the report seeks to show how legal interventions can expand the range of climate actions available to city governments, remove barriers to climate goals and send strong signals to other governmental actors, corporations and citizens that city governments are ready to use all the tools at their disposal to effect change.

CLIMATE CHANGE LITIGATION:
KEY ISSUES TO CONSIDER

The introduction to this report outlined how legal interventions can help cities to achieve their own climate objectives and make a significant contribution to wider system change. Nonetheless, undertaking any type of legal intervention will involve a degree of uncertainty and risk. Factors such as cost, duration, political context and implications for various stakeholders will need to be weighed. Enforcement is also pertinent when considering litigation: a court win is of more limited value to a city if the court order is unlikely to be properly enforced. Cities will need to conduct their own assessment of the options available and decide whether pursuing a given legal intervention is feasible in the local context and of sufficient potential benefit to the city.

When considering whether to undertake litigation in which climate change is the central issue (sometimes called 'strategic climate litigation'), plaintiffs will need to consider a number of matters that are common to different jurisdictions. Lawyers will be familiar with these considerations, but they may be less familiar to city staff in policy departments.

Admissibility

Before considering the merits of a claim, initial questions of admissibility will need to be considered, such as whether the court has competency to hear the case and whether the parties bringing legal action have 'standing' – in other words, whether they are entitled to have the court consider their case. Legal definitions of who has standing vary from jurisdiction to jurisdiction, but in general: (1) plaintiffs must be genuinely and currently interested in the outcome, (2) the questions raised by the case must be questions a court is capable of resolving, and (3) the court must have some authority to order a remedy that would help the plaintiffs. Standing criteria can be a significant and unpredictable obstacle for plaintiffs seeking to bring a climate change lawsuit.[11] Cities can have a different standing in court to other actors. In some cases, this may permit a city government to bring a lawsuit that others cannot. A city may have standing in its capacity as a public law entity or public administration; other relevant factors may include the powers and authority exercised by the city, the services it provides to city inhabitants and the assets it owns or controls, including key infrastructure that may be impacted by climate change.

Causation

Causation can pose challenges, for example, where a plaintiff has difficulty proving a defendant's contribution to climate change, or where it is not possible to demonstrate to what extent a specific extreme weather event was caused or worsened by climate change.[12] Where it can be proven that a defendant's actions contributed to climate change, it may still be difficult to show a link to the specific harm suffered by the plaintiff, or to apportion liability to a specific government, corporation or individual. However, as Ganguly, Setzer and Heyvaert (2018) have noted, developments in climate and attribution science, plus the quantification of the contributions of the largest global emitters to climate change, could increase the likelihood of plaintiffs being able to overcome hurdles such as establishing causation, though success is by no means guaranteed.[13]

Sources of climate obligation

A plaintiff must cite a judicially enforceable basis for the climate right or obligation that the defendant is alleged to have violated. Constitutions around the world include provisions granting citizens a right to a clean or healthy environment, and courts around the world have begun to grapple with the implications of these and other constitutional rights for climate litigants. According to a 2019 survey, at least seven countries had incorporated constitutional rights specifically relating to climate change.[14] A 2012 survey showed that 177 countries had recognised the right to a healthy or safe environment through their constitutions, environmental legislation, court decisions or ratification of an international agreement.[15] Other constitutional rights such as rights to life, health, water or property, may also be invoked as the basis for a claim. Litigants bringing climate actions in national courts have been a primary driver in prompting courts to consider the reach of constitutional rights in the context of addressing climate harm.

Plaintiffs in common-law jurisdictions, such as the US or the United Kingdom (UK), have used causes of action for tort, nuisance and negligence as bases for lawsuits pertaining to the damage caused by climate change. Civil-law jurisdictions, such as countries in continental Europe, may allow tort and negligence claims to be brought against public authorities or may recognise comparable courses of action. Statutes or enforceable policy instruments have codified climate change obligations for private and public actors in a number of jurisdictions, and these obligations can form the basis of litigation challenging the legality of those obligations, the extent of their applicability, and whether specific implementation measures comply with broader statutory or policy requirements.

Separation of powers

Even if a plaintiff is entitled to bring a claim and can identify an enforceable climate right or obligation, they must still identify what kind of remedy they want the court to order. This can raise questions about the scope of the court's authority. One branch of government generally cannot act outside the authority granted to it by the constitution or other laws and intrude on the authority of another branch. This principle, called the separation or balance of powers, is typically invoked as a matter of constitutional law. The same principle applies in any governmental system where policies, laws and regulations outline the respective powers of each part of government. As a litigation matter, laws that mandate a separation of powers typically dictate that courts may not hear claims in which a decision would require deciding between multiple permissible outcomes (usually a function of a legislative body) and may not hear claims if the only remedy available is to create or reform national policy (usually an executive or legislative function).

Separation-of-powers principles can pose obstacles to climate litigation in several ways. Courts may conclude that even if a plaintiff has standing to bring a claim and identifies an enforceable climate-related right that a defendant is violating, the only available remedy is to order a defendant to do more to mitigate its climate impact than national laws require. Courts are typically reluctant to issue an order that would effectively supplant laws and regulations adopted by a legislature. A related example of how separation-of-powers concerns may pose an obstacle occurs when litigants directly challenge whether specific rules and regulations are sufficiently robust to meet statutory or other binding policy statements. In these instances, courts may conclude that as long as the applicable body engaged in proper process and made a deliberate choice between permissible alternative measures to achieve climate goals, the court cannot evaluate whether an alternative may have been preferable.

Conclusion

Climate litigation can be an important part of an overall strategy to address missing or inadequate measures to combat climate change. Despite facing complex legal challenges, plaintiffs around the world have brought thousands of climate cases to date, with varying degrees of success. Some of the cases discussed in the next section are examples of significant legal actions that have overcome many or all of the challenges just outlined. Courts hearing these cases have crafted boundary-pushing remedies in some instances, but in others, courts have rejected plaintiffs' claims. Summaries and available case documents for these and more than 1,000 other climate cases are available in the Sabin Center for Climate Change Law's searchable Climate Change Litigation Databases. As ever more climate cases are brought around the world, plaintiffs and courts will be presented with new opportunities to craft innovative approaches to resolving the key legal issues.

Climate litigation can be an important part of an overall strategy to address missing or inadequate measures to combat climate change

PUBLIC LITIGATION

Plaintiffs around the world have taken action to hold governments and public bodies to account and to drive action on climate change. Some cases have focused on government failure to set adequate mitigation and adaptation goals, to meet existing climate change targets, or to take sufficient measures to address climate change and protect citizens from current and future impacts. Others have focused on government failure to implement or enforce existing legislation on the protection of climate and environment. A number of different sources of law provide the basis for these actions. Some of the most high-profile climate lawsuits to date have been brought on the grounds of alleged violations of human and constitutional rights. We include several of them in this section, as they illustrate the potential impact of such litigation, as well as the hurdles these cases often face. As government entities that do not have the same rights as individuals, city governments are unlikely to play leading roles in human rights– or constitutionally–based lawsuits, although they can lend valuable support. Plaintiffs have also found grounds to bring legal challenges to government failure to implement existing legislation or meet legal obligations, or to proposals to weaken regulatory climate protections. Here, there is greater scope for city governments to play a major role, either as lead or co-plaintiff, or as an *amicus curiae* or interested party.

Strengthening national climate action

One of the primary objectives of global climate litigation to date has been to increase government commitments to tackling climate change, as reflected in domestic law and policy. Some cases are grounded in rights-based arguments, while others have focused on specific statutory or codified obligations. Separation-of-powers concerns can thwart an otherwise effective climate litigation strategy, as illustrated by *Juliana v. United States*, which we outline in this section.[16] However, in some significant cases, courts have been willing to find that insufficient action on climate change constitutes a breach of a government's legal obligations and have made orders forcing governments to take further action.

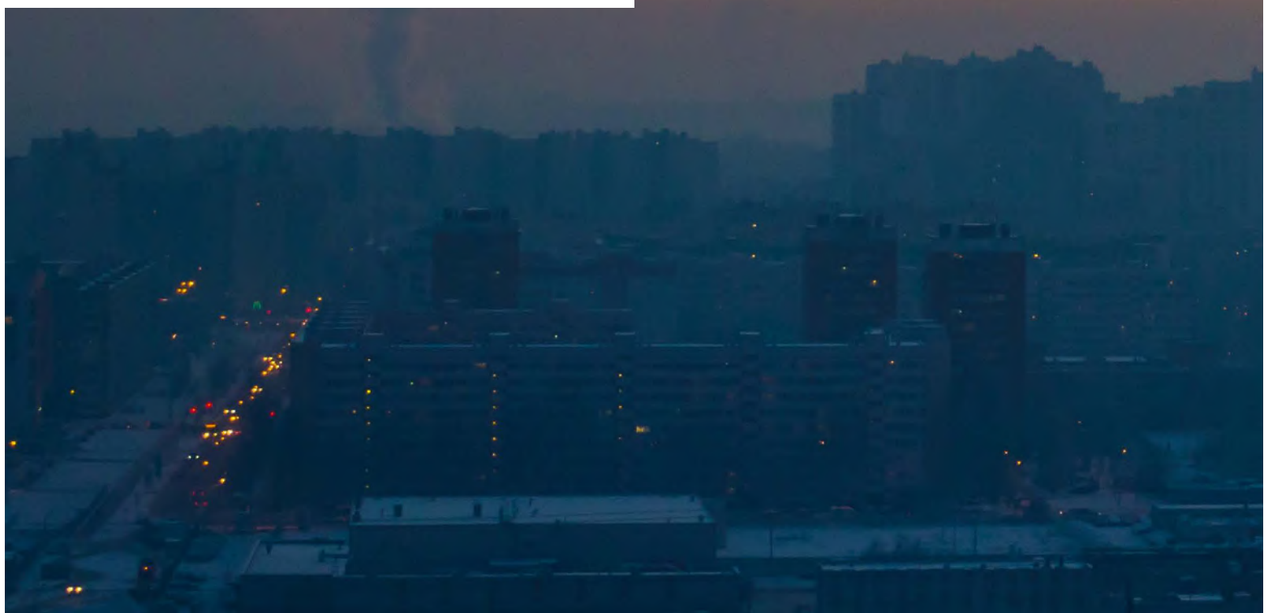
In a landmark US case, in 2005, *Massachusetts v. Environmental Protection Agency*,[17] petitioners including 12 states, the cities of New York, Washington, DC and Baltimore, Maryland and a coalition of environmental organisations brought a case against the Environmental Protection Agency (EPA) requesting that the EPA regulate CO_2 and other GHGs as pollutants. The petitioners argued that the EPA was required to make a scientific determination on whether to regulate GHGs, as the Clean Air Act required the EPA to set emissions standards for 'any air pollutant' from motor vehicles or motor-vehicle engines that can 'reasonably be anticipated to endanger public health or welfare'. The Supreme Court ruled in favour of the petitioners in a 5-4 vote in 2007.[18] The case demonstrates how states and cities can use the courts to hold the federal or national government to account and that, in some cases, existing legislation may present an opportunity to use litigation to ensure emissions are effectively regulated.

In *Urgenda Foundation v. Kingdom of Netherlands*, a Dutch environmental group and 900 citizens sued the Dutch government, alleging that it had violated its duty of care by revising the previous administration's GHG emission reduction goals to make them less ambitious.[19] The court found that the Netherlands owed a duty of care to its citizens to reduce national emissions by at least 25% from 1990 levels by the end of 2020 under Articles 2 and 8 of the European Convention on Human Rights. It held that the government's new goal to reduce emissions by only 17% was insufficient to meet its fair contribution to the Paris Agreement goal of limiting the global temperature rise to 2°C above pre-industrial levels. On appeal, the Supreme Court of the Netherlands upheld the decision, agreeing that the government was obliged to reduce emissions in accordance with the lower court's findings, and that Articles 2 and 8 of the Convention imposed enforceable obligations on the state to protect the right to life and the right to respect for private and family life.[20] In April 2020, the Dutch government announced a package of measures to comply with the court ruling, amounting to around EUR 3 billion of government spending. They included reducing the county's coal-fired power station capacity by 75% and developing large-scale solar projects.[21]

In Neubauer, et al. v. Germany, a group of German youth plaintiffs filed a lawsuit claiming that the target in Germany's Federal Climate Protection Act ("Bundesklimaschutzgesetz" or "KSG") of reducing GHGs by 55% by 2030, from a 1990 baseline, was insufficient. The plaintiffs alleged that the Act therefore violated their human rights as protected by the Basic Law, Germany's constitution. In April 2021, Germany's constitutional court ruled that core parts of the country's climate plans are insufficient, forcing the German federal government to update its 2030 GHG reduction target from 55% to 65%, and bring forward its net zero ambition to 2045.[22]

Cases against the national government have also recently been brought in France: *Notre Affaire à Tous and others v. France* (also known as "l'Affaire du siècle" or "the case of the century"), a case brought by a number of NGOs, and *Commune de Grande-Synthe v. France*, in which the municipality of Grande-Synthe sued the French government for insufficient action on climate change. In *Notre Affaire à Tous and others v. France,* the Administrative Court of Paris examined the French State's own climate change mitigation targets and determined that it had failed to meet these goals and that this has caused ecological damage. It ordered the French government to set out the steps it will take to meet its own targets within two months.[23] In the Grande-Synthe case, meanwhile, the Conseil d'Etat, the French Supreme Administrative Court, has issued a partial ruling that the case is admissible and has ordered the government to justify that it is taking adequate action towards its 2030 climate goals within three months. These ongoing cases both represent major developments in climate litigation in France.[24]

Following the Urgenda ruling, the Dutch government announced a package of measures amounting to around EUR 3 billion of government spending in order to reduce emissions by 25% by the end of 2020



In Future Generations v. Ministry of the Environment and Others, 25 youth plaintiffs brought a case against the Colombian government, several municipalities and a number of corporations.[25] The plaintiffs filed a *tutela*, or special constitutional claim, alleging that their fundamental rights to a healthy environment, life, health, food and water were being threatened by climate change and the Colombian government's failure to reduce deforestation. The Supreme Court of Colombia recognised that the fundamental constitutional rights of life, health, minimum subsistence, freedom and human dignity were substantially linked to the environment and the ecosystem. It reasoned that without a healthy environment it was impossible to protect the fundamental rights of children or future generations. In its final ruling, the Supreme Court ordered the government to formulate and implement action plans to address deforestation in the Amazon region. This case provides an example of how courts can situate climate harm within existing fundamental rights and how plaintiffs can sometimes obtain broad orders requiring more ambitious government action without relying on other statutory commitments.

In *Juliana v. United States*, 21 youth plaintiffs filed suit against the US government to try to make it develop a plan to phase out fossil-fuel emissions, reduce atmospheric GHG concentrations and stabilise the climate system to protect vital resources on which the plaintiffs depend.[26] They argued that the climate system was critical to their constitutional rights to life, liberty and property, that the government violated their substantive due process rights by allowing fossil-fuel production, consumption and combustion at dangerous levels, that the government's failure to limit CO2 emissions violated their constitutional right to equal protection and that the public trust doctrine imposed a duty on the federal government to maintain the integrity of public trust resources for present and future generations.

The plaintiffs succeeded in convincing the trial court that they had suffered sufficient harm to be entitled to have their case heard and that this harm may well have been caused by the defendants' conduct. However, the appellate court concluded that separation-of-powers concerns would ultimately prevent the plaintiffs from prevailing and that it lacked the power to grant the sweeping relief the plaintiffs sought.[27] The appellate court's opinion has been upheld – offering an example of the limits of what climate litigation can accomplish. Even where plaintiffs have succeeded in making a plausible case that shows they suffered injuries caused by defendants' wrongful conduct, the scale of the relief they sought remained beyond the scope of what the court argued that it was authorised to provide.

A committed plaintiff can improve climate governance across an entire nation by using legal interventions

Addressing failure to implement or enforce government policy

Where a national government has adopted a law or policy that could contribute significantly to climate change mitigation or adaptation goals or to tackling air pollution, but has not effectively implemented or enforced it, a plaintiff may be able to bring suit to address this gap. A committed plaintiff can improve climate governance across an entire nation by using legal interventions to ensure that the national government is as specific as possible when setting out how an existing law or policy should be enforced. We include examples of such lawsuits from Pakistan, India and the UK in this section. If a national government is under a legal obligation to act, but has failed to do so, there may also be scope for litigation. There are many examples of cases brought to address the failure of EU member states to comply with obligations under EU law. We include one such case from the UK in this section.

One of Asia's most prominent climate change cases, *Leghari v. Federation of Pakistan,* provides an example of a court holding the national government to its statutory and policy commitments.[28] Ashgar Leghari, a farmer, sued his government for failing to implement its 2012 National Climate Change Policy and its 2013 Framework for Implementation of Climate Change Policy. Although the government had formulated a climate change policy and implementation framework, the court concluded there had been no real progress on implementation. Leghari claimed that the government's failure to meet its climate change adaptation targets had resulted in immediate impacts on Pakistan's water, food and energy security. Such impacts impinged on his fundamental right to life. To oversee implementation of the policy, the court formed the Climate Change Commission to submit regular progress reports on implementation. The Commission's final report in 2018 stated that 66% of the priority items within the implementation framework had been completed. After dissolving the Commission, the court formed a standing committee to create an ongoing link between the court and the executive.

In an Indian Supreme Court case, the national government was challenged over the non-implementation of pollution standards for coal power plants, with implications for India's future energy mix. In 2015, the central government of India established new emission norms for coal-fired power plants, with the aim of reducing conventional pollutant emissions (such as nitrogen oxides, sulphur oxides and particulate matter) from the power sector. To ensure that these standards were enforced, the Legal Initiative for Forest and the Environment (LIFE) NGO brought the non-implementation of the Norms before the National Green Tribunal and the Indian Supreme Court in *M.C. Mehta v. Union of India & Others*.[29] The Supreme Court determined that representatives from LIFE, along with officials from the Ministry of Environment, Forest and Climate Change, the Ministry of Power, the Central Electricity Authority and the Additional Solicitor General, should hold a series of meetings, under the court's direction, to set timelines for compliance with the new emission norms for every thermal power plant in India. While the norms do not regulate GHG emissions directly, they will compel utilities to internalise some of the costs of their pollution. This will prompt the retirement of many of the oldest, least efficient coal plants, creating opportunities for renewable generation to make up for the retired capacity. As a result of the legal intervention and the court-led process, the Supreme Court ordered all power plants to comply with the new emission norms by December 2022. However, in April 2021, the Ministry of Environment issued a new order that allows utilities located in less populous regions to delay compliance until 2025.[30]

In the UK, environmental lawyers ClientEarth have won three cases against the government in relation to its failure to tackle air pollution in accordance with its obligations under EU law. The legal battle began with a challenge brought by ClientEarth over the UK government's failure to draw up a plan to reduce illegal levels of air pollution in accordance with the requirements of the EU Ambient Air Quality Directive (Directive 2008/50/EC).[31] The NGO then successfully challenged the inadequacy of the court-ordered air quality plan that followed in 2015, in a subsequent case in 2016.[32] The High Court ruled that the plan failed to comply with the Directive on the grounds that the government's air quality modelling was flawed and granted an order requiring the Secretary of State to publish a new, compliant plan. Mayor of London Sadiq Khan was an interested party to the challenge, submitting statements and evidence to support aspects of ClientEarth's case.[33] These submissions made material and positive impacts on the strength of the resulting judgment.

In response to ClientEarth's third legal challenge,[34] in 2018, the High Court determined that the measures set out in the UK government's 2017 Air Quality Plan were not sufficient to achieve substantive compliance with the EU Directive and the relevant air quality regulations for 45 local-authority areas in England and Wales and ordered the government to draw up a supplementary plan. The plans produced by the UK government in response to these two court orders have been accompanied by directions requiring local authorities to develop their own plans to identify local measures to address illegal levels of nitrogen dioxide (NO_2) in their areas. This has resulted in Clean Air Zone proposals in a number of towns and cities in England. These Clean Air Zones were scheduled to be implemented in 2020, 2021 and 2022.[35]

ClientEarth is pursuing other, similar legal challenges targeting air pollution in 11 European countries, including Germany, Italy, Poland and Bulgaria. In addition, it recently commenced a new action against the German federal government for its failure to ensure that its air pollution control programme complied with the EU's National Emission Ceilings (NEC) Directive.

Challenging planned fossil-fuel extraction and infrastructure projects and ensuring thorough climate assessments

The construction of new infrastructure projects that will lock in emissions for decades is a global climate concern. A new coal-fired power plant, a carbon-intensive industrial facility or an airport that will emit emissions for many years may make it difficult for a city to meet its climate targets for 2030 or even 2050. To prevent carbon lock-in, actors around the world are seeking to ensure that climate change considerations are included in environmental review processes and government permitting. In this section, we highlight three recent examples: lawsuits challenging the approval of new coal-fired power plants by the national environmental authorities of South Africa and Kenya and a set of cases challenging the UK government's policy in relation to the proposed expansion of Heathrow Airport on the grounds of failure to properly account for the government's commitments to the Paris Agreement.

Example: Challenges to the authorisation of new coal-fired power plants

In March 2017, NGO Earthlife Africa Johannesburg (ELA) won what is considered to be South Africa's first climate change lawsuit *(Earthlife Africa Johannesburg v. The Minister of Environmental Affairs)*.[36] ELA first submitted an appeal to the Minister for Environmental Affairs challenging the decision to grant environmental authorisation for the Thabametsi coal-fired power plant on the basis that the Department of Environmental Affairs was required to carry out a comprehensive assessment of the proposed plant's climate change impacts and did not do so. When the Minister of Environmental Affairs upheld the authorisation, despite concluding that a climate change analysis would need to be completed before the project commenced, the ELA submitted a review application to the North Gauteng High Court. The High Court found in favour of ELA and ordered the Minister of Environmental Affairs to reconsider ELA's appeal, taking into account a full climate change impact assessment report.[37] The judgment of the High Court stated that a 'climate change impact assessment is necessary and relevant to ensuring that the proposed coal-fired power station fits South Africa's peak, plateau and decline trajectory as outlined in the country's Nationally Determined Contribution and its commitment to build cleaner and more efficient than existing power stations'.[38]

In June 2019, Kenya's National Environmental Tribunal ordered a licence issued by the National Environment Management Authority for the Lamu coal-fired power plant to be set aside *(Save Lamu et al. v. National Environmental Management Authority and Amu Power Co. Ltd.)*.[39] The coal-fired power plant would have been the first in the country, which is currently largely powered by

renewable sources, including geothermal, solar and wind. The court found that the environmental impact assessment (EIA) process had not included proper and meaningful public participation, as required by law and had not adequately considered factors including climate change. The court ordered a new EIA to be conducted, taking into account relevant legislation, including the Kenyan Climate Change Act 2016 and Energy Act 2019. The project's main financier, the Industrial and Commercial Bank of China (ICBC), eventually decided to withdraw from the project and in November 2020, the Kenyan national government cancelled the plans for the Lamu coal-fired power plant.[40]

Example: Challenge to airport expansion plans

In 2018, the UK Secretary of State for Transport outlined plans to add a third runway at Heathrow Airport in the Airports National Policy Statement (ANPS). The Mayor of London, a number of London boroughs and environmental NGOs, including Friends of the Earth and Plan B, sought judicial review of the plan in four separate claims.[41]

Among other things, the plaintiffs argued that the government had violated the Planning Act of 2008, which mandated the Secretary to pursue sustainable development and mitigate climate change. They further argued that the Act contained an explicit requirement to consider the UK government's policy commitment to the Paris Agreement, claiming state support for airport expansion violated these obligations.[42]

In May 2019, the High Court dismissed the claims, saying none of the climate change grounds was arguable, as the Paris Agreement was not enshrined in UK law. It did, however, grant permission to appeal on a number of grounds, which Friends of the Earth and Plan B duly did *(Plan B Earth and Others v. Secretary of State for Transport)*.[43] In February 2020, the UK Court of Appeal unanimously reversed the lower-court ruling, saying the government had not properly considered the fact that its commitment to the Paris Agreement had become government policy when the ANPS was developed. Though the court concluded that the UK government did not need to act in accordance with the Paris Agreement, it did need to consider its goals before finalising the ANPS. As the government had failed in this regard, the Secretary had violated the Planning Act. As a final twist, Heathrow Airport won on appeal and the Supreme Court overturned the UK Court of Appeal's decision in December 2020 on the basis that the domestic implementation of the Paris Agreement was itself being developed at the time of the development of the ANPS. The UK government was, therefore, free to outline a consent order that is required for major infrastructure projects. But that consent order needed to consider the more ambitious climate commitments that the UK has announced since 2018.

These cases demonstrate how courts are increasingly willing to declare proper consideration of climate change an essential part of EIA processes and to take into account a national government's stated commitments to addressing climate change, as well as other objectives, such as economic development. In some cases, challenging EIAs or planning processes may only succeed in delaying a proposed project rather than stopping it. For example, after the *Earthlife Africa* case succeeded in requiring the permitting authority to include a full climate impact assessment, the government approved the project (although a group of major investors decided to withdraw from the project). Still, challenging EIAs, or similar decisions, can be useful in improving the quality of environmental reviews and for the potential benefits of delaying a project until investors decide to withdraw or until the government has committed to more ambitious climate policies.[44]

Preventing deregulation or the weakening of existing regulation

Cities can use litigation to challenge proposals that weaken existing regulations relating to climate change, pollution or other environmental harm. Cities have already been involved in a number of successful actions in this regard. In this section, we provide examples in relation to vehicle emission standards and appliance efficiency standards.

Example: Vehicle emission standards

Vehicle emission standards are usually set by national or state governments. In the EU, the bloc's regulations on vehicle emissions apply to all member states. They have even been adopted by countries outside the EU and influenced other vehicle markets, such as China and India. Transport accounts for an average of 30% of urban GHG emissions in C40 cities, while nitrogen oxides and particulate-matter emissions are major contributors to ambient air pollution, which has a serious impact on human health and was associated with about 4.1 million deaths globally in 2019.[45] Vehicle emission standards are, therefore, an essential tool to regulate harmful pollutants from passenger and commercial vehicles and to ensure that vehicles become cleaner and more fuel efficient over time. While city governments are using their powers to deploy a range of ambitious strategies to reduce GHG emissions from transport and tackle harmful air pollution, weak vehicle emission standards can undermine progress significantly.

A number of US cities including Los Angeles, New York and San Francisco joined a coalition of US states in challenging regulations passed by the federal government, which represented a significant weakening of vehicle emissions standards.[46] Another lawsuit was filed by US states and cities challenging the EPA's revocation of the permission previously granted to California in relation to its GHG emission-reduction and zero-emission vehicle programmes.[47] As of April 2021, the Biden administration has announced its intention to withdraw the revocation of California's right to set its own vehicle emissions rules.[48]

In 2018, Paris, Madrid and Brussels successfully sued the European Commission over the introduction of Regulation 2016/646, which allowed new diesel vehicles to substantially exceed nitrogen oxide limits in on-road testing, resulting in an effective weakening of vehicle emissions standards *(Joined Cases T-339/16 Ville de Paris v. European Commission, T-352/16 Ville de Bruxelles v. European Commission and T391/16 Ayuntamiento de Madrid v. European Commission).*[49] As a result of the cities' legal action, that part of the 2016 regulation was annulled, in a major victory for the protection of clean air and human health across Europe. The combined lawsuits were also ground-breaking in that they marked the first time the European Court of Justice allowed city governments to bring such an action against the European Commission. EU law permits legal proceedings to be brought by any natural or legal person against a regulatory act that is of direct concern to them and does not entail implementing measures. In this case, the cities successfully argued that their action met these admissibility criteria, as the regulation limited their powers to regulate the circulation of vehicles within the context of air pollution abatement measures.[50] The Commission, Germany and Hungary each brought an appeal against the General Court's judgment before the Court of Justice. In June 2021, Advocate General Bobek issued a non-binding opinion recommending that the Court of Justice dismiss the appeals in their entirety.[51] The lawsuits lay the ground for cities to bring future cases against the European Commission, if necessary, provided the admissibility criteria are met.

Example: Appliance efficiency standards

Appliances are a significant contributor to final energy use. For example, the US Department of Energy (DoE) regulates appliances that account for 90% of home energy use, 60% of commercial building energy use and 30% of industrial energy use.[52] Establishing minimum energy efficiency standards for appliances, equipment and lighting has been an effective policy approach for reducing energy consumption in buildings in many parts of the world. These standards are predominantly set by the national or regional government, but enforced at a local-government or city level. Cities have a vital role to play in ensuring that appliance efficiency standards are upheld, both through enforcement and in opposing any weakening of the regulations set at other levels of government.[53]

In 2017, in *California v. Perry,*[54] 11 states, New York City and a broad coalition of advocacy groups launched a successful legal challenge against the US DoE's failure to announce energy efficiency standards for five types of appliance and industrial equipment. The plaintiffs filed a complaint for declaratory and injunctive relief, asking the court to determine whether the DoE had the right to withhold publication of the efficiency standards. The City of New York stated that with respect to the Paris Agreement, 'energy efficiency standards for appliances help the City of New York meet these important goals'.[55] The court instructed the DoE to publish four energy conservation standards for the appliances.[56]

In September 2019, the DoE also announced that it would roll back energy saving standards for selected light bulbs, even though, according to the DoE's own evaluation, strengthening energy efficiency standards for those bulbs would have a net present value of more than USD 4 billion in benefits to the US.[57] New York Corporation Counsel James E. Johnson, in *New York v. US Department of Energy*,[58] filed a lawsuit petition to review this withdrawal as part of a coalition with 16 US states. The city- and state-led lawsuit coincided with a separate lawsuit filed by the Natural Resources Defense Council (NRDC) and environmental and advocacy groups.[59] The outcomes of these lawsuits have yet to be determined, but are further examples of cities, states and advocacy groups opposing weak national legislation. The Biden administration has signalled its intention to develop more ambitious energy efficiency policies.

The cases brought by Paris, Madrid and Brussels against the European Commission were a major victory for the protection of clean air and human health across Europe

ENGAGEMENT WITH GOVERNMENT MINISTRIES OR AGENCIES TO DRIVE CHANGES IN LEGISLATION OR POLICY

City government decision-making is often enabled or constrained by decisions, laws and regulations at a regional, national or supranational level, for example, when national laws prevent a city from passing local regulation on a specific issue. Where the decision-making power for a specific area sits with another governmental authority, city governments may be able to engage strategically to help shape a policy, law or regulation, or to obtain the authority to undertake climate action. The form of engagement will vary based on local context and the type of government agency or body in question. Usually, such engagement starts with a dialogue between the relevant ministry or agency and the city government and/or other concerned stakeholders in a bid to find a mutually agreeable solution. Litigation may be a 'last resort' after other political and administrative options have been exhausted, or because the requisite process of engaging with a regulatory body is through litigation, as is the case with Public Utility Commission proceedings in the US. This section outlines cases from South Africa and the US in which actors, including city governments, engaged in proceedings to influence state and national policymaking. It also considers how cities in EU countries can engage with this supranational legal framework with a view to driving ambitious climate or environmental legislation in their own jurisdictions and beyond.

Example: Cape Town seeks the right to procure renewable electricity from independent power producers

Cape Town aims to diversify its energy supply and reduce carbon emissions by sourcing some of its electricity supply from independent power producers (IPPs) rather than obtaining all of its electricity from the heavily coal-dependent national grid, which is supplied by state monopoly Eskom.[60] However, under South Africa's regulatory framework, it is unclear whether a city can procure energy directly from producers other than Eskom, unless there is a prior determination by the Minister for Energy and the National Energy Regulator of South Africa. In 2015, Cape Town asked the Minister for a determination to procure renewable energy from an IPP. Its application went unanswered for 20 months before then Minister for Energy Tina Joematt-Pettersson said she had placed all new determinations on hold.[61]

Under the South African constitution, a city has constitutional and statutory duties to provide basic services, including electricity, and Cape Town argues that a city has constitutional and statutory authority to determine how best to discharge this duty. After engaging in fruitless policy discussions with the relevant national ministry, the City of Cape Town took the Minister of Energy to court in 2017 to clarify whether a municipality had the right to procure renewable energy in the absence of a ministerial determination.[62] Meanwhile, during his State of The Nation Address in February 2020, President Cyril Ramaphosa stated that the government would put in place measures to enable municipalities in good financial standing to procure their own power from IPPs.[63] Submissions were heard in the North Gauteng High Court in May 2020. In this action, Cape Town was supported by the Centre for Environmental Rights, an NGO which made submissions as an interested party, signalling that the court case had a wider base of support beyond the City of Cape Town administration.[64]

In August 2020, the court elected not to rule and instead referred the parties back to intergovernmental dispute resolution processes. Cape Town has written to the Minister for Energy and Mineral Resources stating its commitment to a renewed engagement process. In June 2021, multiple Eskom generating units failed, leading to severe Stage 4 load-shedding. Cape Town called upon the Minister for Energy and Mineral Resources to accelerate the process of permitting municipalities to source power directly from IPPs, which would contribute to addressing the ongoing power-supply crisis facing South Africa.[65] Other South African cities that have signalled their intent to procure a higher share of renewable energy include the C40 cities of Ekurhuleni, eThekwini and Johannesburg, as well as Mangaung and Nelson Mandela Bay.

Example: Engaging with US Public Utility Commissions with a view to accelerating the transition to renewable energy

In some policy and regulatory frameworks, electricity markets tend to be heavily regulated, partly in response to the high fixed costs and long-term investment horizons associated with large-scale utility operations.[66] In the US, state-level agencies, known as Public Utility Commissions (PUCs), are tasked with regulating electricity and natural gas utilities. PUCs regulate investor-owned utilities,[67] but can also exert authority over electric cooperatives, water, telecommunications and other types of urban infrastructure.[68] As PUC proceedings tend to be legally and technically complex, local governments rarely get involved, even though they have standing. But when cities do engage, it can have significant implications. Local governments in the US can engage in a number of PUC processes that affect the speed and extent of the transition to renewable energy, such as rate cases, utility-filed investment applications, energy-market rulemaking, investigatory proceedings, stakeholder working groups and public consultations. Active engagement in PUC processes can allow local governments to influence government policy at state level, as well as utility companies' strategies in a way that can further the city's climate goals. However, PUCs make decisions based on the evidentiary record of a commission action or filing, which requires that local governments enlist energy and utility law experts to build their case as intervenors.

A recent case from Kansas exemplifies how intervenors can take legal action to challenge PUC decisions. In 2018, two utility providers, Westar and Kansas City Power and Light (now Evergy), applied to their state energy regulator, the Kansas Corporation Commission (KCC), for a rate increase for residential solar customers. The utility providers argued that the additional charges were justifiable as rooftop solar owners would otherwise pay so little for the energy they used that it would prevent the utilities from recovering their fixed costs. The KCC issued a non-unanimous decision to approve the new rate structure for residential 'distributed generation' customers.[69]

In response, two of the objecting intervenors in the rate case, the Sierra Club and Vote Solar, appealed the KCC action to the Court of Appeals, arguing that the charge was prejudiced against residential solar customers and unfairly inflated their energy bills. As a consequence of the added fees, a significant drop in the number of households seeking to connect household solar to the grid in the Kansas City area was observed in the year following the KCC decision.[70]

While the Court of Appeals affirmed the Commission's decision, the objecting intervenors appealed the verdict to the Kansas Supreme Court, which, in April 2020, sided with the plaintiffs on the grounds that rate increases for residential solar customers constituted price discrimination.[71] While this ruling only applies to Kansas, the successful reversal of the KCC decision can provide guidance for renewable energy advocates in other states, including local governments fighting similar discriminatory charges in other jurisdictions where utility companies and others oppose decentralised renewable energy generation.

Example: Engaging with the law-making process in the EU

City governments play a significant role in the implementation of EU legislation and policy and can often effectively represent the views of citizens as the body of government closest to them. As such, they can provide valuable expertise to the development of EU legislation and its transposition into domestic law in member states.

A number of avenues are open to EU cities wishing to engage with the EU law-making processes to drive ambitious legislation on matters pertaining to climate change and the environment. Cities can offer expertise to the Commission, which is responsible for proposing new initiatives and drafting legislation before it is reviewed by the European Parliament and Council, either at the initial stages of drafting and amending legislation or at a later stage, when the Commission develops guidance for member states on implementing a directive. Cities can participate in consultations held as part of the development of new legislative proposals, both individually and collectively through their membership of certain representative networks. Cities can also engage directly with the representatives of member states in the European Council or with Members of the European Parliament.

A number of institutions engage with EU legislative and policy proposals on behalf of regional and local governments in the EU, including the European Committee of the Regions and the Council of European Municipalities and Regions, as well as Eurocities, a network of larger European cities. In addition to these mechanisms, cities may consider alliances with NGOs or other interested parties to advocate on the content of certain legislative and policy proposals where their views align. Cities facing barriers to climate action as a result of a member state's failure to implement or adhere to EU law through domestic transposition can play a 'watchdog' or monitoring role by reporting such non-implementation to the Commission. Cities can also advocate to their national governments on how EU directives are transposed into domestic law, for example, by providing draft legislation or legislative recommendations for the relevant ministry to consider.

There are many examples of EU regulations and directives that are highly relevant to cities and their ability to achieve their climate objectives. The 'Clean Energy for all Europeans' package, for example, includes directives focused on the energy performance of buildings, the percentage of renewable energy in the EU's energy mix, energy efficiency targets and a regulation mandating member states to establish integrated 10-year national energy and climate plans for 2021 to 2030.[72] On consumption and waste management, the 2020 Circular Economy Action Plan[73] is one of the main blocks of the European Green Deal,[74] while the first-ever European Strategy for Plastics in a Circular Economy,[75] adopted in 2018, aims to transform the way plastic products are designed, used, produced and recycled in the EU. Cities may wish to engage with the European Commission or with their national governments directly to ensure binding EU targets are met, EU legislation is fully implemented through domestic law and any barriers to implementation at the city level arising from national legislation are removed. Cities may have recourse to their national courts or may consider filing a complaint with the European Commission if such engagement is unsuccessful.

CORPORATE ACCOUNTABILITY

Plaintiffs around the world have taken action against corporations, including oil and gas companies, carmakers and plastics manufacturers, to hold them to account for their climate impacts and demand greater corporate climate responsibility. A number of local governments in the US have taken fossil-fuel corporations to court, seeking billions of dollars in damages to deal with the costs associated with negative climate impacts in their localities. In France, local governments have initiated legal action to compel a fossil-fuel company to fully account for the climate impacts of its operations.[76] In both the US and Europe, NGOs and city-affiliated pension funds have used their role as shareholders to encourage companies to reduce their GHG emissions and to move away from investments with low returns and a negative climate impact. Shareholder action presents a number of opportunities for cities to try to influence the behaviour of corporations whose activities affect local and global emissions. This section also highlights cases where NGOs or subnational governments have used their regulatory powers to protect consumers and investors from misleading advertising.

The outcomes of some of the cases described in this section are not yet known, but they are collectively sending a signal that local governments are prepared to take legal action to challenge corporations whose activities make major contributions to climate change and negatively impact urban residents, local businesses and city infrastructure.

Holding major polluting industries accountable for climate impacts

Example: Fossil-fuel companies

Pressing concerns about current and future climate impacts have given rise to numerous lawsuits that aim to hold the major fossil-fuel companies to account for their actions, as they are responsible for a significant share of cumulative GHG emissions.[77] The most recent set of legal interventions against fossil-fuel companies is premised on the companies' knowledge that the burning of fossil fuels causes climate change and that, despite this knowledge, the companies coordinated disinformation campaigns designed to confuse the public's understanding of the threat from climate change and weaken government commitment to action.

Improved historical emission inventories and increasing confidence in climate attribution science are providing more information on the share of cumulative global emissions for which specific companies are responsible and, by extension, those companies' contributions to climate change.[78] Current estimates show that 90 'carbon majors' (large fossil-fuel and cement-producing companies) are responsible for up to two-thirds of the cumulative CO_2 and methane emissions that have been released into the atmosphere since the start of the industrial revolution.[79] Furthermore, over half of these emissions have been produced since 1986, when it had already been scientifically established that fossil-fuel combustion contributed to climate change.[80]

Comparisons have been made between current fossil-fuel litigation and past litigation against tobacco companies, whereby plaintiffs lost multiple times before a series of successful cases saw tobacco companies held responsible for healthcare costs associated with smoking-related illnesses and, in some cases, required to pay billions of dollars in damages.[81] Parallels have also been drawn to tobacco companies because those companies sought to conceal and deny evidence of the strong causal links between smoking and lung cancer and other illnesses, just as a number of fossil-fuel majors are known to have been aware of the links between fossil-fuel burning and global climate change, but still used advertising and other means to try and discredit the scientific evidence.

In the US, 19 local governments,[82] including C40 members New York City and San Francisco, as well as cities and counties in California, Colorado, Hawaii, Maryland and Washington and the state government of Rhode Island, have taken a number of legal actions against fossil-fuel companies. The state and local governments allege that the fossil-fuel majors are liable for climate change damages based on a number of common law and statutory theories, including public nuisance, negligence and product liability. Often, the plaintiffs in these cases are seeking damages to pay for adaptation measures.[83]

In *Mayor and City Council of Baltimore v. BP P.L.C. et al*,[84] for example, the City of Baltimore, Maryland claims flooding and storms will become more frequent and severe as a consequence of fossil-fuel majors' wrongful conduct. Average sea levels will rise along Baltimore's 60 miles of waterfront land and negatively impact city-owned or operated facilities that are critical for public services and risk management, as well as assets that benefit the community's health, safety and wellbeing. The city government is already spending significant resources on studying the consequences of and adapting to negative climate effects. In response, Baltimore 'seeks to ensure that the parties who have profited from externalising the responsibility for sea-level rise, extreme precipitation events, heatwaves, other results of the changing hydraulic regime caused by increasing temperatures, and associated consequences of those physical and environmental changes, bear the costs of those impacts on the City, rather than Plaintiff, local taxpayers, residents, or broader segments of the public'.[85]

The city and county of Honolulu, Hawaii, initiated a similar legal intervention against eight oil companies *(City & County of Honolulu v. Sunoco LP),* claiming that climate change was negatively impacting the city in the form of sea-level rise, heat waves, flooding and drought.[86] It said the consequences will be increasing coastal erosion and beach loss, extreme rain events, extended droughts and freshwater scarcity. The impacts of sea-level rise alone are expected to cost the city USD 19 billion, as they threaten roads, coastal structures, freshwater pipes and wastewater treatment plants.

Because of the island state of Hawaii's vulnerability to climate change, the county of Maui, which comprises four Pacific islands, has followed Honolulu's lead and engaged external legal counsel to take action against fossil-fuel majors. When announcing its intent to hold fossil-fuel companies to account for the impacts of climate change, Maui's mayor, Michael Victorino, gave the following reasoning:[87]

'Fossil fuel companies could have taken steps to reduce damage or warn people about the danger from continued use of products that harm the environment. Instead, they've promoted and marketed their products and made billions in profits, all the while protecting their own assets from the damages they knew would occur. They've undertaken a campaign to undermine their own science that predicted global warming and its devastating impacts. We can no longer allow fossil fuel companies to shift the cost of paying for the effects of sea-level rise and climate change to our taxpayers.'

In April 2021, New York City lost the case which it had brought against five multinational oil companies under New York tort law.[88] However, the city has since brought a separate lawsuit against three of the largest oil and gas companies and American Petroleum Institute alleging that the defendants violated New York City's Consumer Protection Law by systematically and intentionally misleading New York City consumers about their products' role in causing climate change.[89] At the time of writing, this case is ongoing.

As these cases work their way through the US court system, they face a number of hurdles, such as proving causation between emissions generated by a fossil-fuel major's products and a specific climate impact. However, the fact that a number of lawsuits are playing out simultaneously in multiple state and federal courts may have a significant cumulative impact on carbon-intensive industries if the plaintiffs win. The fossil-fuel companies are, furthermore, forced to publicly account for the impact of their products and the increased global climate risk resulting from business-as-usual practices.

Example: Automakers

Automobile manufacturers are potential defendants in lawsuits similar to those brought by cities against fossil-fuel companies. Plaintiffs could try to hold them to account for the GHG emissions generated by their vehicles or the contributions of these vehicles to urban air pollution. City governments could file lawsuits against automakers in a bid to recoup damages to fund climate change mitigation and adaptation policies or strategies to promote clean transport and improve air quality. Such litigation could also accelerate transport electrification, by incentivising automobile manufacturers to increase the number of electric vehicles they make and shift away from internal combustion engine (ICE) vehicles, especially the high-polluting vehicles that have recently taken a larger share of the overall market.

In 2006, the State of California brought a public nuisance suit against six auto manufacturers, alleging that the defendants had made substantial contributions to GHG emissions, resulting in millions of dollars of costs to the state to assess and address the impacts of climate change and prepare for additional future impacts *(California v. General Motors Corp)*.[90] The district court dismissed the state's claim on the basis that it presented a non-justiciable question, which can only be addressed by the political branches of government. The California Attorney General's Office dropped its appeal in 2009, citing policy changes by the Obama administration.

The *California v. General Motors Corp* case illustrates the challenge involved in asking a court to make a determination in relation to corporate responsibility for GHG emissions. However, as noted, advances in climate science and attribution science are enabling plaintiffs to try new arguments and strategies in litigation against private companies. Cases brought in relation to alleged misconduct, such as misinformation or failure to warn, may have a better chance of success than earlier cases that did not allege misconduct, but which focused on defendants' contributions to GHG emissions and the damages suffered by plaintiffs. Forms of misconduct that might be relevant in future lawsuits against automobile manufacturers include deliberately breaching existing regulations and favouring higher-polluting vehicles in terms of production, investment in technology and advertising spending. Olszynzki, Mascher and Doelle (2017) contend that the tort of negligence – in particular, failure to warn – could constitute a basis for claims.[91]

Olszynzki (2017) has also argued that consumer vehicle demand is shaped by choices made by the automotive industry.[92] Several studies have shown

that US carmakers spend a large majority of their media advertising on ICE vehicles and only a small proportion on electric vehicles.[93] Commentators have noted that the higher profit margins for these vehicle types incentivise manufacturers to push them more than smaller passenger vehicles that are usually more fuel efficient.[94] In recent years, sales of sport utility vehicles (SUVs) have increased as a proportion of all vehicles sold in both Europe and in the US.[95] According to an analysis by the International Energy Agency, SUVs have been the second-biggest contributor to the increase in global CO_2 emissions since 2010.[96]

In recent years, lawsuits have been brought by national and state authorities, investors and consumers against carmakers in relation to breaches of emission regulations in the EU and the US. The Volkswagen (VW) Group has been at the centre of the 'Dieselgate' scandal,[97] after it was found to have cheated emissions tests by installing engine software in diesel vehicles that detected test conditions and cut emissions of nitrogen compounds using techniques not deployed under normal driving conditions. Criminal and civil lawsuits have been brought against VW in countries including the US, Germany, Australia and the UK. While most legal actions to date have been brought against the VW Group, due to its proven use of the so-called 'defeat devices', several European investigations have found that new vehicles made by all major diesel car manufacturers exceeded the applicable Euro 6 standard in real-world driving conditions.[98]

These lawsuits demonstrate some of the potential impacts of successful litigation. The financial consequences may deter carmakers from breaching emissions regulations in the future. Legal action arising from the cheating of emissions tests has so far cost the VW Group around EUR 30 billion in fines, legal fees and compensation payments, and suits continue to be brought by affected consumers. Many US states are planning to use the settlements they have received to invest in cleaner transport, from electric buses to public charging stations for electric cars.[99] The widespread media coverage of the Dieselgate scandal may have contributed to the decline in sales of diesel vehicles in many major markets, though other factors are also likely to have played a role, such as tax changes and the number of cities planning to introduce diesel bans.[100] VW's chief engineering officer in North America has also suggested that the Dieselgate scandal has prompted the group to accelerate its investment in electric vehicle manufacturing.[101]

When it became clear that VW had fitted vehicles with defeat devices designed to circumvent emissions tests, Mayor of London Sadiq Khan wrote to the company asking that Transport for London be compensated for lost revenue from congestion-charge payments, as VW vehicles, which had been deemed eligible for a lower-emission-vehicle discount, did not in fact meet the criteria.[102] City governments have so far not intervened in the lawsuits against VW, but they may be well placed to consider actions against vehicle manufacturers in the future, given the pivotal role of city governments in tackling air pollution and reducing harmful emissions from transport in urban areas. Breaches of applicable emissions regulations by certain manufacturers' vehicles can undermine the effectiveness of such emission reduction strategies.

Cities bear many of the social and economic costs of the pollution caused by large numbers of ICE vehicles circulating in cities and may be able to build an argument against manufacturers based on these costs, including the costs of designing and implementing policies to combat vehicle emissions. Furthermore, the scientific evidence is clear that air pollution is a major contributor to respiratory disease and premature deaths. While individuals may have difficulty linking specific health effects they have suffered to the actions of one or more vehicle manufacturers, city governments are better placed, as they collectively represent thousands or millions of citizens and often have better access to data on local air pollution and its impacts on

people's health.

Example: Consumer goods companies

Another potential category of defendant is goods manufacturers, particularly those that make goods such as single-use plastics, which are used for a short period of time, but involve significant resources and produce emissions throughout their lifespan, from production to shipping, treatment and disposal. City governments are often responsible for waste management. Some cities grappling with the challenge of disposing of huge volumes of single-use products and packaging have engaged in bilateral arrangements with specific producers to tackle disposal issues, while others have introduced measures to increase awareness, incentives for waste reduction or recycling, levies or restrictions on specific materials or products, bans on single-use plastics and extended producer responsibility policies. Litigating against consumer goods companies could be another avenue for cities should other strategies not fully address the problem, potentially putting pressure on such companies to develop more sustainable products. This section describes a recent case brought by an environmental group in California; the case is ongoing, and it remains to be seen whether it will be successful.

Earth Island, a California-based environmental group, has brought a case against 10 major consumer goods companies, including Coca-Cola, Nestle, Mars and Procter & Gamble, with the aim of holding these companies accountable for plastic pollution in the oceans and waterways *(Earth Island Institute v. Crystal Geyser Water Company et al).*[103] Earth Island alleges, among other things, that the defendant companies have placed the onus on consumers to recycle to prevent plastic from polluting the environment, despite knowing that it is not feasible for all of their products to be recycled for reasons including (a) a lack of market demand for recycled plastic, as virgin plastic derived from oil and natural gas is much cheaper, and (b) the inability of US recycling plants to process the enormous volume of the defendants' products received each year.

The causes of action raised in the plaintiff's complaint include tortious claims, such as public nuisance and negligence, as well as violations of the California Consumer Legal Remedies Act and breach of express warranty. The remedies sought by Earth Island include requiring the defendants to pay for remediation of the harm caused and to cease marketing their products as recyclable, as fully recycling their products is not feasible under current conditions. According to the complaint, 'as Defendants have known for decades, plastic recycling wages a losing battle to the exponential increase in plastic production each year. Recycling captures less than 10 percent of plastic produced annually.'[104]

In this case, Earth Island argues that it has standing through its fiscally sponsored projects and programmatic work to address plastic pollution and as the owner of a property that includes two waterways connected to San Francisco Bay, which are adversely impacted by plastic pollution, in addition to representative standing on behalf of its members.[105] Whether a city government would have standing (or the equivalent right to have a court consider its case in a jurisdiction outside the US) will depend on the laws of the relevant jurisdiction, but it could be argued that city governments can show they are affected by the products produced by such consumer goods companies, as local governments often bear the cost of waste management programmes and other negative impacts, such as the pollution of waterways and flooding caused by drains being blocked by plastic waste, and are responsible for ensuring taxpayer funds are used effectively.

Requesting that corporate strategies consider climate impacts

While the current cases against fossil-fuel majors in the US seek damages from these companies due to the mounting cost of dealing with climate impacts in plaintiffs' localities, other cases currently being heard in Europe seek court rulings that would require fossil-fuel companies to change corporate behaviour or practices in the future and are grounded in obligations under national law and the protection of human rights.

In France, a legal intervention that aims to increase corporate climate accountability is currently underway, led by more than a dozen French local governments, as well as NGOs Notre Affaire à Tous, Sherpa, Zea and Les Eco Maires *(Notre Affaire à Tous and Others v. Total).*[106] The plaintiffs are seeking a court order that would force French oil and gas company Total, one of the world's biggest emitters,[107] to develop a corporate strategy that covers climate risks resulting from the use of Total's products and services. In addition, the plaintiffs are requesting that the carbon major set out a company climate trajectory compatible with the goals of the Paris Agreement.

According to the local governments and NGOs taking the legal action, Total has not done enough to limit its climate impact or set out concrete steps to reduce GHG emissions, despite the fact that it is required to develop a 'plan of vigilance' under French commercial law. This plan should outline how the company operates in a way that aims to mitigate risks to human rights, fundamental freedoms, the environment and public health. The plaintiffs have also asked the courts to use the Paris Agreement as a basis for evaluating the adequacy of corporate climate commitments.[108]

There has also been a successful corporate liability case in The Netherlands. In *Milieudefensie et al. v. Royal Dutch Shell plc.*, the Dutch environmental organisation Milieudefensie, alongside Friends of the Earth Netherlands and other co-plaintiffs, filed a court summons to Royal Dutch Shell accusing Shell of violating its duty of care under Dutch law and human rights obligations, based on the corporation's contributions to climate change. The plaintiffs sought a ruling from the court that would force Shell to reduce its CO2 emissions by 45% by 2030, compared to 2010 levels, and for net zero emissions by 2050, in line with the targets of the Paris Agreement. In May 2021, the Hague District Court ordered Shell to make this 45% reduction by 2030, compared to 2019 levels rather than 2010 levels, across all activities including both production-based and consumption-based emissions.[109]

Shareholder and investor action

In 2019, 41,000 companies were listed on the world's stock exchanges, with a market value of around USD 80 trillion. The Organisation for Economic Co-operation and Development (OECD) estimates that more than half of these assets are owned by institutional investors, such as pension funds, and the public sector.[110] Many city governments are also institutional investors, in that they operate affiliated pension funds. A city pension fund can exercise its legal rights as a shareholder by introducing or supporting shareholder resolutions to influence the policies and plans of corporations in which it owns shares. Another action that may be available to a city pension fund, as a shareholder, is to sue a company for breach of fiduciary duty. This strategy could be used, for example, to prevent a project with questionable financial viability that would also have a detrimental climate impact. We outline examples of both types of action in the following pages.

Furthermore, city pension funds tend to have global reach, like other institutional investors, as they own shares in companies in multiple countries. Many pension funds will also own shares in the same large multinational corporations, allowing for collaboration between cities on shareholder resolutions.

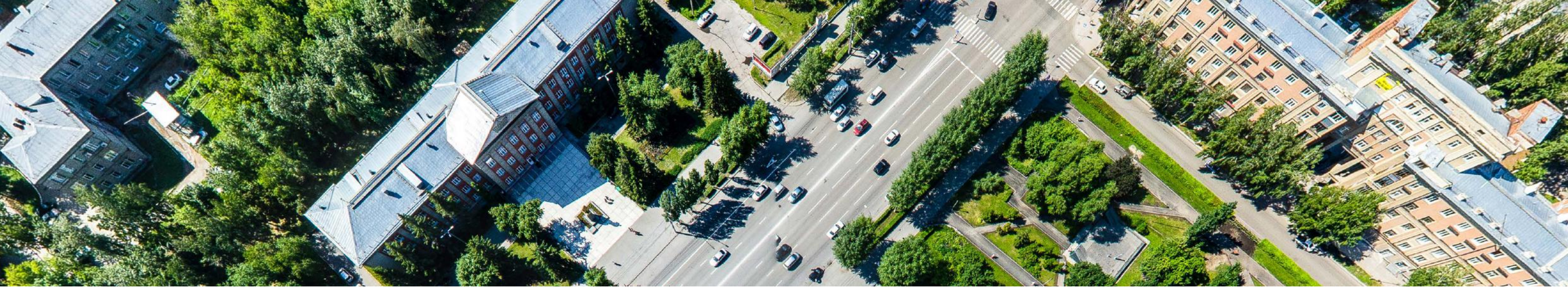
Example: Litigation to challenge investment strategies

In Poland, one of the most coal-dependent nations in Europe, with a highly carbon-intensive electricity sector,[111] environmental law organisation ClientEarth became a shareholder in utility company Enea SA to prevent the construction of a 1-gigawatt (GW) coal-fired power plant. Enea had adopted a resolution backing a EUR 1.2 billion (USD 1.29 billion) investment in Ostrołęka C, a coal-fired power plant. ClientEarth responded by suing Enea SA, seeking the annulment of the resolution on the basis that the investment in Ostrołęka C risked 'breaching board members' fiduciary duties of due diligence and to act in the best interests of the company and its shareholders' *(ClientEarth v. Enea).*[112]

While climate concerns motivated ClientEarth to take legal action, the NGO focused its shareholder claim on the fact that the proposed investment would harm Enea SA's financial prospects due to increasing carbon prices, decreasing costs for competitive renewable energy and upcoming EU reforms that would affect state subsidies for coal-generated power. Market analysts, asset managers and institutional investors had already questioned the financial viability of the Ostrołęka C project on the same grounds.

In August 2019, the court ruled in favour of ClientEarth and stated that Enea SA's resolution in support of the coal project was legally invalid.[113] In February 2020, Enea and its project partner Energa said they would suspend funding for Ostrołęka C for economic reasons.[114] ClientEarth's shareholder intervention sets an important precedent for investors who may wish to take legal action to prevent fossil-fuel investments on financial grounds.

Cases currently being heard in Europe seek court rulings that would require fossil-fuel companies to change corporate behaviour or practices



Example: Introducing or supporting resolutions

In 2019, institutional investors including the London Pension Fund Authority, San Francisco Employees' Retirement System and New York City Pension Funds[115] led a targeted engagement with British Petroleum (BP) in their role as members of Climate Action 100+, a group representing 370 investors and more than USD 35 trillion in assets. Climate Action 100+ successfully convinced BP's board to support a shareholder resolution that required the company to develop a business strategy compliant with the goals of the Paris Agreement.[116] With the board's consent, the resolution passed with the support of 99.14% of BP's shareholders.[117] Proactive institutional investors thus managed to commit one of the world's 10 biggest polluters to developing a more sustainable business strategy.[118]

The BP case is but one example of how city governments can become more active sustainable investors and introduce climate-focused shareholder resolutions. Either on their own or with groups of institutional investors, cities can press companies in which they own shares to reduce their emissions. In the case of BP, institutional investors opted to target an oil and gas company, given its obvious contribution to climate change. However, the same shareholder strategy is relevant for any number of carbon-intensive industries.

Example: Insurance companies

A coal mine, oil rig or power plant cannot operate without insurance.[119] The insurance industry is, therefore, another key sector where cities can take action as shareholders, either alone or as part of a group of institutional investors.

The Unfriend Coal network highlights the fact that globally, 20 insurers and reinsurers are pivotal in underwriting the financing and operating of fossil-fuel infrastructure.[120] While there is still plenty of financing available for new coal projects and other highly polluting fossil-fuel activities, the limited number of major global insurers that possess the expertise and resources to underwrite fossil-fuel exploration means that influencing insurers and reinsurers increases a shareholder's potential to impact an entire market.[121] According to the coal-industry trade magazine, *World Coal*, insurer action on coal 'is causing tangible impact; insurance brokers report that the cost of insuring coal is increasing as the market shrinks'.[122]

Most major European and Australian insurers had adopted coal-exit policies at the end of 2020, as well as some insurers in the USA. However, a number of US insurers are yet to take any action on fossil fuels, and 10 major US insurers continue to support organisations who actively lobby against climate action.[123]

In April 2020, New York City Comptroller Scott M. Stringer[124] sent an investor letter to three insurance companies – Berkshire Hathaway, AIG and Liberty Mutual – on behalf of the USD 155 billion New York City pension funds. The city urged the insurance companies to cut their business ties with the coal industry, to stop underwriting coal projects and to divest all coal-industry holdings.

According to Mr. Stringer, the 'science is clear: coal is polluting our air, water, and ecosystem. Continuing to invest in coal projects will only create greater financial risk, potential liability, and future cost-burdens in the short and long term. We urge the executives of Berkshire Hathaway, AIG, and Liberty Mutual to be forward-thinking and act now to cut off their financial ties with the coal industry.'[125]

By using their legal standing as shareholders, city pension funds can encourage insurance companies to respond to concerns from their investors and voluntarily move away from climate-threatening and financially questionable investments.

Enforcing regulatory compliance of consumer goods

Energy labels are an integral element of appliance efficiency regulation and allow consumers to purchase products that consume less energy. In the past, environmental NGOs have conducted campaigns to assess the compliance of retailers and manufacturers to energy labelling requirements.

Globally, most appliance standards are set at national level. In the US, all major appliances must meet the DoE's Appliance and Equipment Standards Program and display an energy guide label. In the past, Earthjustice organised a programme whereby associates would visit retail stores directly and manually verify whether manufacturers and retailers were adhering to energy labelling regulations.[126] In many cases, both manufacturers and retailers were found to be in violation. Those identified were contacted directly and presented with the possibility of legal proceedings if the violations were not rectified. Manufacturers and retailers were found to be highly receptive and took the necessary action to ensure their products did not violate the regulation. This is a practical measure that city governments could consider, which requires limited resourcing compared with litigation.

Consumer and investor protection (corporate greenwashing)

Many local governments around the world possess regulatory powers that protect the rights of individuals as consumers and investors, for example, by ensuring that corporations do not engage in misleading advertising. Consumer and investor protection is an important legal tool in the climate fight, exemplified by actions taken by the attorneys general for the US states of Massachusetts and Minnesota and the attorney general for the District of Columbia, as well as environmental law organisation ClientEarth in the UK.

Massachusetts Attorney General Maura Healy has brought a lawsuit against fossil-fuel company ExxonMobil under the state's consumer and investor protection law, on the grounds of misrepresentation. As ExxonMobil has only spent 0.5% of its revenues on clean energy development, the State of Massachusetts alleges that the company 'targets consumers with deceptive messaging about Exxon as a good environmental steward and of its products as 'green' while the company is massively ramping up fossil fuel production'.[127]

In June 2020, Minnesota Attorney General Keith Ellison and Washington, DC Attorney General Karl A. Racine filed suits under the consumer protection laws of those jurisdictions.

In the UK, ClientEarth submitted a complaint against oil giant BP to the OECD in December 2019.[128] The OECD sets standards for responsible corporate conduct for multinational businesses. The grounds for ClientEarth's complaint was BP's large-scale advertising campaigns – 'Keep Advancing' and 'Possibilities Everywhere' – which highlighted BP's efforts to support renewable energy, despite the fact that more than 96% of BP's capital expenditure still goes to oil and gas.

This particular legal intervention was spearheaded by an NGO, but filing a complaint with the OECD's national contact point on the grounds that multinational enterprises should not 'make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent or unfair'[129] is a route also open to other actors, such as local governments or employees.[130]

While the US cases are ongoing at the time of writing, BP announced that it would 'stop corporate reputation advertising' in response to ClientEarth's complaints.[131] These cases show that local governments and other actors can use subnational consumer protection and/or consumer fraud statutes to protect individual consumers and investors' right to truthful information about companies' climate impacts. Such interventions can help consumers to make more informed decisions to reduce their personal climate impacts, as well as prevent corporations from claiming they are taking active measures to reduce GHG emissions while largely pursuing business as usual.[132]

BOLD AND PIONEERING USE OF CITY POWERS

In addition to legal interventions directed at other actors, the policies and regulations developed directly by cities are critically important to tackling climate change. While the development of new policies and regulations is the everyday work of city government, some will involve particular legal hurdles. Where a policy is innovative or the first of its kind, or more ambitious than the policy set by the relevant state or national government, cities may have to undertake additional legal analysis to determine what is feasible. They may in some cases have to defend the policy in the courts. This section provides examples of such ambitious policies and of regulations introduced by cities that have helped to reduce emissions from the energy, buildings, transport and waste sectors. In some cases, these policies and regulations have been challenged in the courts, but have been successfully defended by cities. These pioneering policies pave the way for other cities in the same jurisdictions to follow suit.

ENERGY

Preventing the expansion of fossil-fuel terminals

In Portland, Oregon, in 2016, the City Council passed ordinance No. 188142 with the aim of prohibiting new fossil-fuel terminals (FFTs) and the expansion of existing ones. The city's rationale was that FFTs contributed significantly to GHG emissions and posed a risk to the health and safety of residents and activities located in their vicinity.[133] Oregon's Critical Energy Infrastructure Hub, which handles 90% of the state's liquid fuel supply and is located in Portland, is vulnerable to earthquakes. Also, many of the hub's storage tanks were built before there was sufficient understanding of local seismic risk.

After Portland passed its city ordinance, however, it was challenged in the Oregon Land Use Board of Appeals (LUBA) by several trade groups.[134] The plaintiffs argued that a ban on the expansion of FFTs violated the dormant Commerce Clause of the US Constitution, as it discriminated against interstate trade in fossil fuels. The City of Portland, as a defendant in the case, lost in the Oregon LUBA, but the Oregon Court of Appeals reversed the lower court's decision. In its reversal, the appeals court did not agree with LUBA that Portland had favoured in-state actors over out-of-state actors by banning FFTs, nor had the business trade groups that challenged the ordinance been able to prove how they were unduly burdened by the decision in relation to the ordinance's clear local benefits.

While the trade group claimants appealed the decision, the Oregon Supreme Court declined to hear the case, affirming the City of Portland's right to regulate fossil-fuel infrastructure. In response to the Supreme Court's affirmation of the city ordinance, Portland Mayor Ted Wheeler said: 'This is a significant victory for the people of Portland. I'm very pleased with the ruling that our Fossil Fuel Terminal Zoning Amendments are Constitutional. Portland's fossil-fuel infrastructure policies align with our climate, health, safety, and air quality goals, and will help us achieve a transition to 100% renewable energy community-wide.'[135]

Through its ground-breaking city ordinance and consequent court victory, Portland was able to prevent an expansion of fossil-fuel infrastructure within its boundaries, while simultaneously protecting urban residents and the environment from unsafe, and potentially hazardous, impacts on their community in the event of an earthquake.

In February 2020, New York City followed Portland's lead by issuing Executive Order No. 52, which commits the city to end the expansion of fossil-fuel related infrastructure, such as pipelines, terminals and new fossil-fuel based electricity generation capacity.[136]

Prohibiting or restricting the use of natural gas

In another effort to address the expansion of fossil-fuel infrastructure, the City of Berkeley, California passed an ordinance in July 2019 banning natural gas infrastructure in new buildings.[137] The local natural gas ban was the first of its kind in the US and effectively aims to require the installation of all-electric appliances in new constructions. This, combined with a decarbonised electricity grid, would significantly reduce the city's GHG emissions. Currently, burning natural gas in city buildings accounts for 27% of Berkeley's emissions. The pioneering ban is already being followed by similar measures in other Californian cities; As of June 2021, 46 cities in California have adopted building codes that reduce their reliance on natural gas, including San Francisco which requires all new construction to be fully electric starting from June 2021.[138] Outside of California, local governments such as New York City, as well as municipalities in the Boston and Washington, DC area are exploring a variety of local measures to prohibit or restrict the use of natural gas in new, renovated or existing buildings.[139]

Berkeley's trailblazing policy has been challenged in a US District Court by the California Restaurant Association on the grounds that the federal Energy Policy and Conservation Act, as well as the California Buildings Standards Code and the California Energy Code, pre-empt a local ordinance.[140] In July 2021, the US District Court for the Northern District of California ruled that Berkeley's prohibition of natural gas hookups was not preempted by the federal Energy Policy and Conservation Act.[141]

Through its ground-breaking court victory, Portland was able to prevent an expansion of fossil-fuel infrastructure within the city

Prohibiting or restricting the burning of solid fuels for heating

In Krakow, Poland's second-largest city, the city authority took pioneering legal action to ban the burning of solid fuels for heating (the so-called Krakow coal ban).[142] The ban, which covers central heating systems, as well as stoves and fireplaces, was primarily motivated by the positive impact it would have on Krakow's air quality. The burning of solid fuels was a key source of the city's air pollution, especially PM_{10}, $PM_{2.5}$ and benzo(a)pyrene.

The city government first introduced a resolution to limit the use of solid fuels in 2013 following a campaign led by NGOs and citizens. Extensive public consultations showed that more than 90% of participants supported a complete ban on solid fuel in the city.

However, soon after the resolution was introduced, it was challenged in court and ultimately defeated; Krakow's resolution had been based on a section of national law – Article 96 of the Polish Environmental Law (PEL) – that didn't provide for a solid-fuel ban in its existing form. To get the right to ban the burning of solid fuels, Krakow needed to encourage the national government to revise Article 96 PEL, demonstrating the often-complex interplay between urban policymaking, litigation and legal reform. An action that starts as a pioneering urban policy may require litigation to defend it and, sometimes, legal reform to implement it.

After its defeat in court, Krakow, supported by a coalition of NGOs, initiated a wider advocacy campaign and lobbied the national parliament to amend Article 96 PEL. The city also enlisted ClientEarth to provide support on relevant legal amendments during the legislative process. This coordinated push resulted in an amended legal framework that was ratified by the Polish parliament and the President in 2015.

With an amended national law in place, the city introduced a revised coal ban, alongside public consultations that reaffirmed public support for the measure. While Krakow's resolution was challenged in court for a second time, the Supreme Administrative Court upheld the city's policy[143] and the solid-fuel ban was finally implemented in 2019. Krakow's initiative and ensuing work to clarify a local government's legal scope of action have inspired more cities to follow suit, and procedures to restrict the use of solid fuels are currently underway in other Polish municipalities.

BUILDINGS

Enacting new-building codes that go beyond state/national codes

Building codes are typically issued at the national, state or provincial level and are subject to adoption by local government. To drive greater building efficiency and help cities meet their emissions targets, cities can assess whether they have the authority to enact more stringent building codes, for example, through local bylaws. A number of cities globally have sought to do this.

In South Africa, the National Building Regulations and Buildings Standards Act (No. 103 of 1977)[144] regulates and controls building standards, and municipalities are given decision-making powers to determine whether buildings in their jurisdictions meet these regulations in a process known as 'building plan approval'. As part of C40's South Africa Buildings Programme, the mayors of Tshwane, Johannesburg, Cape Town and Durban are developing or updating policies and regulatory instruments to increase the stringency of energy efficiency requirements in buildings beyond what is required at a national level, to put them on an accelerated path to achieving net-zero carbon buildings by 2030. The cities undertook an assessment of the legal feasibility of implementing more stringent energy efficiency requirements, considering their constitutional mandate to do so. In particular, they looked at implementing local building bylaws. Arguably, the cities have authority under the constitution to enact such bylaws, provided they do not contradict or oppose national building regulation requirements, but complement, add to and enhance them. For example, the City of Tshwane is reviewing its Green Building bylaw, which came into force in 2012, to ensure that any amendments to the regulation are aligned with national regulations and standards, while increasing ambition and driving energy efficiency.[145]

Passing regulation that reduces emissions from existing buildings

Cities can assess the legal viability of passing building energy codes that go further than state or national legislation and, where feasible, seek to implement more stringent legislation.[146] This can be done through stretch codes, which are locally mandated codes, or alternative compliance pathways that are more stringent and seek to achieve high energy savings.

The City of New York has passed some of the most stringent climate legislation with respect to the city's existing buildings, which account for roughly 70% of the city's emissions. The city's 2019 Local Law 97 puts it on track to achieve a 40% reduction in GHG emissions from covered buildings by 2030, compared with 2005 levels and a reduction of at least 80% by 2050.[147] Local Law 97 encompasses a host of measures that target emission reductions in buildings, setting annual building emission limits, for example, and allowing reductions in reported emissions if a building utilises clean distributed energy sources. Penalties for non-compliance with the law are due to come into effect in 2025 and will be levied on an annual basis thereafter. Similarly, Washington, DC has brought in the Building Energy Performance Standard as part of the Clean Energy DC Omnibus Act of 2018.[148] From 2021, buildings greater than 50,000 square feet that fall short of a specific energy performance threshold will have to either report a 20% reduction in energy usage or implement energy efficiency measures over a five-year compliance period.[149] Following in the footsteps of New York City and Washington, DC, other US cities are now seeking to introduce similar regulations.

Portland, Oregon has been looking at whether it has the power to institute a building code that is more ambitious than the code set by the state. While focusing specifically on whether the city has the authority to deploy sprinkler systems in night clubs, there are wider implications for Portland, as it will assist the city in determining the state's level of pre-emption on building codes and, therefore, whether the city government has the power to set its own building energy efficiency regulations.

Creating a local cap-and-trade system that covers buildings

Cap-and-trade (C&T) systems use market forces to reduce emissions in a cost-effective manner. Governments set an emissions cap and provide a quantity of emission allowances in line with that cap. Emitters are required to hold allowances for the GHG emissions they produce. Many countries around the world use C&T systems, including EU member states, the US and China.[150]

Since 2010,[151] the City of Tokyo has operated a C&T system that targets emissions in the building sector. It is a ground-breaking and unique C&T programme in that it specifically includes building emissions and was both developed and is managed by a city. Before rolling out this system, Tokyo established a number of guidelines for monitoring, verifying and certifying emissions.

In 2002, the city introduced the Tokyo Carbon Reduction Reporting Program[152] with a view to encouraging facilities to prepare and submit building performance reports. This was a mandatory reporting programme and was based on an amendment of the Tokyo Metropolitan Environmental Security Ordinance in 2000.[153] Local governments in Japan have authority to enact local bylaws, as long as they do not conflict with, and are not pre-empted by, national law. The local bylaw asked large facilities to report on GHG emissions and submit an emission reduction plan. However, the city recognised faults in the voluntary nature of the reporting programme, such as unfairness between facilities and the fact that it was proving difficult to make significant emission reductions, which led the city to make the reporting mandatory.

When drafting the C&T programme in 2008, the Tokyo Metropolitan Government was required to assess the legal feasibility of the programme to ensure it did not conflict with any national regulation. The Tokyo Metropolitan Environmental Security Ordinance was rewritten by the Tokyo Metropolitan Assembly (TMA), with additional clauses relating to emissions caps on large emitters and self-reduction and emissions trading measures.[154] The city imposes strict enforcement measures on those who violate the C&T programme. Building owners that fail to meet their reduction targets have to cover 1.3 times the reduction shortfall, can be fined up to JPY 500,000 (USD 4,650) and will have the violation publicised.[155]

Tokyo's C&T system has contributed significantly to the city's carbon footprint reduction, avoiding 14 million metric tonnes of CO_2 in the first five years. This concept of emissions trading has also garnered interest from other global cities. Recently, New York City commissioned a feasibility study into carbon trading for buildings, as mandated by Local Law 97.[156]

Tokyo's C&T system has contributed to the city's carbon reduction, avoiding 14 million metric tonnes of CO_2 in its first five years

TRANSPORT

Low and zero-emission areas

Cities are employing a range of mobility-related strategies to reduce GHG emissions and tackle air pollution, including the introduction of low- or zero-emission areas, the pedestrianisation of parts of the city, congestion pricing or toll charges on certain roads, the electrification of bus fleets and the rollout of segregated, continuous cycling networks. As of June 2021, 36 cities (including 29 C40 members) had signed the C40 Green and Healthy Streets Declaration,[157] each committing to procure, with partners, only zero-emission buses from 2025 and to make a major area of their city zero-emission by 2030. The policies that city governments can use to achieve these goals vary according to the legal framework in the relevant jurisdiction and the powers available to them.

In 2016, the City of Paris banned cars from a stretch of road on the Right Bank of the Seine river, dedicating the space to pedestrians and cyclists. The city was taken to court over the pedestrianisation plan, with opponents challenging the evidence of the effects of the car ban on traffic and pollution reduction. Paris defended the move by focusing on how the pedestrianisation scheme would protect the city's heritage and tourism, including the preservation of a UNESCO World Heritage Site and, on this basis, the Administrative Court ruled that the scheme could remain.[158]

A number of European cities have introduced low-emission zones, with vehicle restrictions that become more stringent over time. For example, Paris has introduced a low-emission zone and aims to phase out all diesel-powered vehicles by 2024 and all petrol-powered vehicles by 2030 as part of its Climate Action Plan.[159] Milan's low-emission zone bans vehicles that do not meet specific emission standards, while London has made effective use of road pricing. In 2003, London introduced its congestion charge, with drivers having to pay a daily charge to enter central London. Green vehicles are exempt. In 2019, the city introduced an emissions-based charge on top of the daily congestion charge, creating an ultra-low-emission zone (ULEZ). This additional fee applies to dirtier vehicles, in an attempt to further disincentivise their use. In October 2021, the ULEZ will expand to cover a larger area of London, four times the size of the congestion-charge zone, and any car not meeting the minimum emissions standards will be required to pay a daily charge when entering it. In each case, these policies have been designed in accordance with the specific legal frameworks in the relevant jurisdictions and the powers available to the city authorities, to ensure they are robust to legal challenge.

The introduction of low or zero-emission areas presents a significant opportunity for municipalities in the US to reduce urban emissions; transportation is the largest direct source of US GHG emissions, 59% of which comes from light-duty vehicles.[160]However, the legal framework presents a number of potential challenges to be considered when designing a policy that aims to restrict vehicle traffic in a designated area. Policymakers must bear in mind the potential for pre-emption under a number of federal laws,[161] considerations arising in relation to the US Constitution (including the dormant Commerce Clause), any relevant provisions of state law, and implications under privacy and data-security law due to the use of technology for payment or enforcement.[162] In some states, policies involving congestion pricing are subject to further restrictions. In New York, enabling legislation had to be passed by the state legislature so the city could introduce its proposed congestion pricing scheme, which requires all vehicles (with certain exceptions that are still being discussed) to pay a toll to enter the central business district of New York City.[163] The scheme also requires federal approval (which is pending), as it includes roads and highways constructed with federal aid. US cities are aware that implementing such traffic restrictions carries a risk of litigation. Nonetheless, a carefully crafted policy that has been developed with detailed legal analysis to avoid contravening the aforementioned legal framework should minimise the challenges involved in contesting any potential litigation that may arise.

WASTE

Bans on single-use items

As of 2015, 79% of all plastic ever produced existed in landfill or the natural environment.[164] Roughly 50% of this was classified as 'single use', such as plastic bags, straws and utensils.[165] The plastics lifecycle entails significant GHG emissions and threatens our ability to keep the rise in global temperatures below 1.5°C. If significant action is not taken in this sector, GHG emissions from plastics are likely to account for 10-13% of the entire remaining carbon budget by 2050.[166]

A number of national governments have banned some single-use plastic items at national level, including Kenya, Rwanda[167] and France.[168] In the absence of such national policy, cities can implement bold policy frameworks that achieve single-use plastic reductions in their jurisdictions. Bans on single-use items can be challenging to introduce; some US states have introduced pre-emptions preventing cities from introducing plastic bans,[169] while other cities that do have the power to introduce bans may face industry opposition. Cities may need to build strong support among citizens and craft a policy that is robust to legal challenges. The City of Vancouver, British Columbia, in Canada, has successfully introduced a series of local bylaws that gradually phase out single-use plastic items, following an extensive stakeholder consultation involving the evaluation of alternative options.[170] However, the neighbouring City of Victoria, in the same province, had its bylaw prohibiting single-use plastic bags in stores challenged by the Canadian Plastics Industry Association and subsequently declared invalid by the British Columbia Court of Appeal, on the basis that it had been written as an economic provision when it was, in fact, introduced on environmental grounds.[171] The city filed an amended version of the bylaw and approached the province's Ministry of Environment,[172] as the introduction of any bylaw on environmental grounds must be approved at the provincial level. As of May 2021, the city's plastic bag bylaw was reinstated, restricting the use of plastic bags across the city.[173] Other cities around the world that have imposed restrictions or bans on certain types of single-use plastic include Mexico City,[174] São Paulo[175] and Seoul.[176]

CONCLUSION

This report has sought to demonstrate how legal interventions can be a key lever for cities seeking to accelerate action in the face of the climate emergency. Key takeaways for cities are as follows:

The scope of climate legal action is large. The number of lawsuits seeking greater climate ambition and accountability for climate harm from governments or companies is growing and cities are increasingly participating as plaintiffs. However, many other types of action are also available to cities in order to significantly reduce GHG emissions from a range of sectors. Cities can use legal interventions to prevent the construction of harmful infrastructure projects or enable the continued expansion of renewable energy, to enforce or improve national legislation on vehicle emission standards or appliance efficiency, or to develop ambitious new city policy to tackle building emissions, to name but a few.

Climate legal action is on the rise, opening up new opportunities. As the number of cases grows, so do the opportunities for cities to participate in or support lawsuits initiated by others and to learn from other plaintiffs.

Different types of legal intervention are available depending on what cities want to achieve. The examples in this report have illustrated how cities can use legal action affirmatively to challenge and change laws and the behaviour of other actors, as well as defensively to develop and protect their ambitious climate policies. This report has used 'legal interventions' to refer to litigation, targeted engagement to drive legal reform, and pioneering policies by cities. One or more of these interventions may help a city to achieve a desired climate policy outcome.

Cities are well placed to take action. A city may be able to bring a case that others cannot, as it may have a different standing in court, due to a variety of factors, such as its capacity as a form of public government, the powers and authority it exercises, the assets it owns or controls, or the services it provides to citizens.

Legal interventions enable cities to challenge and remove barriers to climate action. Legal action can enable cities to take action in relation to those key emissions sources which they currently struggle to tackle due to a lack of powers, either by helping them to procure the requisite powers or by providing the means to influence national or regional government policy or corporate activities.

A climate legal intervention by one city can help many. When a city uses legal action to procure powers or remove barriers, this can benefit cities across an entire jurisdiction. For example, when the Mayors of Paris, Brussels and Madrid successfully challenged an EU regulation, their action protected thousands of localities within the EU from worsening air quality.

Knowledge sharing and connecting with experts in climate legal actions can help cities to go further. A wealth of legal expertise is available to cities, both within city legal departments and from external legal organisations that have been helping cities, NGOs, citizens' groups and individuals to take climate legal action in recent decades. Cities can learn from other actors both in and outside of their jurisdictions. Although many legal matters are jurisdiction-specific, comparable courses of action may be available and strategic lessons can apply more broadly.

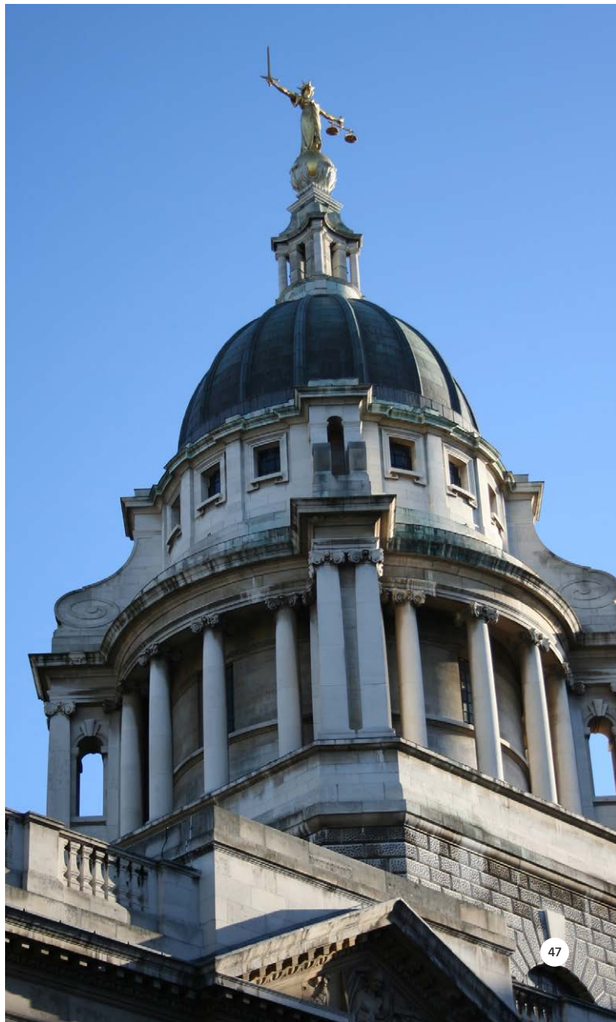
City action can send a powerful political message. Cities often represent a substantial proportion of national economies, large populations and significant assets, all of which may be affected by climate change. Many cities are already focused on protecting citizens from current and future climate impacts, as well as pollution and environmental degradation that threaten health and wellbeing. City governments may already be climate leaders, demonstrating through their own policies that ambitious climate action is feasible and necessary. As such, their participation in legal interventions can send strong messages to governments, markets and the wider public sphere, helping to shape the collective dialogue about climate action and to bring about wider systemic change.

If at first, you don't succeed... Many cases cited in this report went through several stages of court proceedings before affirming a city's right to implement a certain policy, or a government's obligation to step up climate action. While the novel nature of many climate lawsuits means that outcomes can be uncertain and success is far from guaranteed, perseverance has in many cases led to a productive conclusion for cities and other plaintiffs. Well-grounded cases, even when ultimately unsuccessful, can still be useful in clarifying the scope of action available to cities and in sending strong signals that cities are fully committed to tackling the climate crisis.

Cities can play a leading or supporting role. As well as initiating their own action, cities can provide assistance either by joining lawsuits as co-plaintiffs, providing support to a case as an *amicus curiae* or interested party, or by vocally supporting a case in the public sphere. In each case, the authority carried by an elected mayor and their government, together with evidence of how the outcome of the case will affect the city, can be of valuable support to a case.

Collective legal action can lead to even greater impact. The examples in this report illustrate the power of cities bringing legal action together, either as a group or with civil society or other motivated actors. Such collaboration can strengthen cases and enable cities to form local, regional and global climate coalitions. Cumulative legal action, where individual cities bring cases broadly on the same topic or against the same defendants, can also send strong messages and draw more attention to critical issues that must be addressed.

City policymakers or lawyers may wish to use this report to consider how legal interventions can help their cities to achieve their ambitious climate goals, recognising that there are many ways to take action. Building on the examples cited in this report, cities can share their own experiences of legal action with other cities and learn from the experiences of others, which may be a helpful first step towards unlocking future legal action.



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ENDNOTES

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