

Lessons from global trends in climate change legislation and litigation

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Outline

The *Climate Change Laws of the World* database

- History, scope and content

Insights from the data

- Climate legislation peaked before the Paris Agreement
- Spain, the UK and South Korea have legislated most
- Climate legislation is not a partisan issue
- Climate legislation slows during economic downturns
- Judges outside the US tend to rule in favor of climate action

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Climate Change Laws of the World in a nutshell

- Searchable, publicly available database available on <https://climate-laws.org/>
- Multi-year data collection exercise at the Grantham Research Institute, dating back to 2011
- Close collaboration with the Global Legislators Organisation for a Balanced Environment (GLOBE), the Inter-Parliamentary Union (IPU) and the UNFCCC.
- Since 2015 collaboration with the Sabin Center for Climate Change Law at Columbia Law School.



Broad definition of climate change laws and lawsuits

Climate change legislation

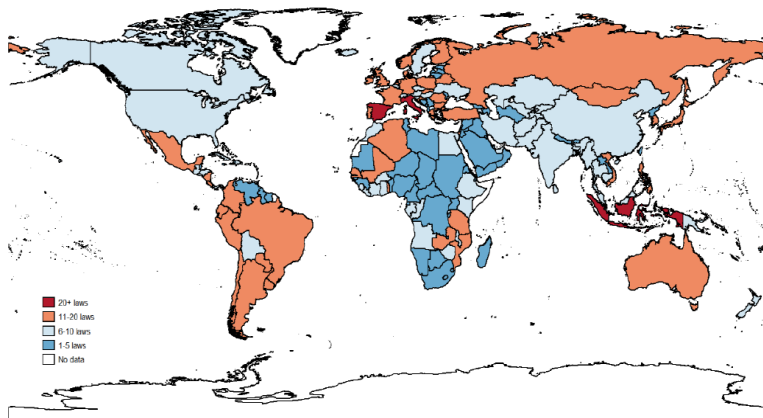
- All measures relevant to the climate debate, eg carbon pricing, energy, transport, land use, adaptation
- Both legislative acts passed by parliaments and executive orders by governments
- Only national laws, i.e. ignoring the actions of cities and states

Climate change litigation

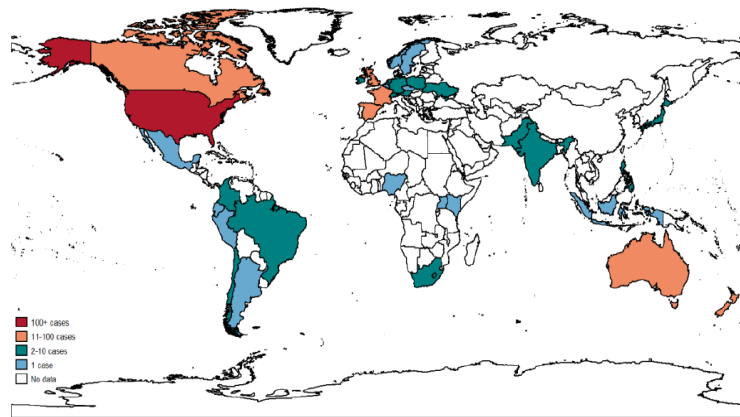
- Broad coverage of actors (governmental and non-governmental) and jurisdictional levels (local, regional, national and international)
- Cases raise issues of law or fact regarding climate change
- Case files contain keywords such as climate change, global warming, GHGs, sea level rise.

Global coverage (with gaps on litigation)

1,800 laws in 198 jurisdictions*



355 court cases in 36 jurisdictions*



* 197 countries and the European Union as a block

* 1,150 US court cases are contained in a separate database

Including laws and court cases of strategic importance

Framework Legislation



Overarching laws that define the institutional arrangements and objectives of climate policy

Strategic court cases



High-profile claims that seek increased mitigation ambition or compensation for damages caused

Including laws and court cases of strategic importance

Framework Legislation



Overarching laws that define the institutional arrangements and objectives of climate policy

Strategic court cases



Example: UK Climate Change Act 2008

Defines long-term ambition; sets intermediate targets; creates new institutions; requires adaptation planning; defines processes and responsibilities

for damages caused

Including laws and court cases of strategic importance

Framework Legislation



Example: Urgenda vs the Netherlands

Dutch NGO argues successfully for the adoption of stricter emissions targets on human rights grounds. Ruling upheld by the Dutch Supreme Court in 2019

Strategic court cases



High-profile claims that seek increased mitigation ambition or compensation for damages caused

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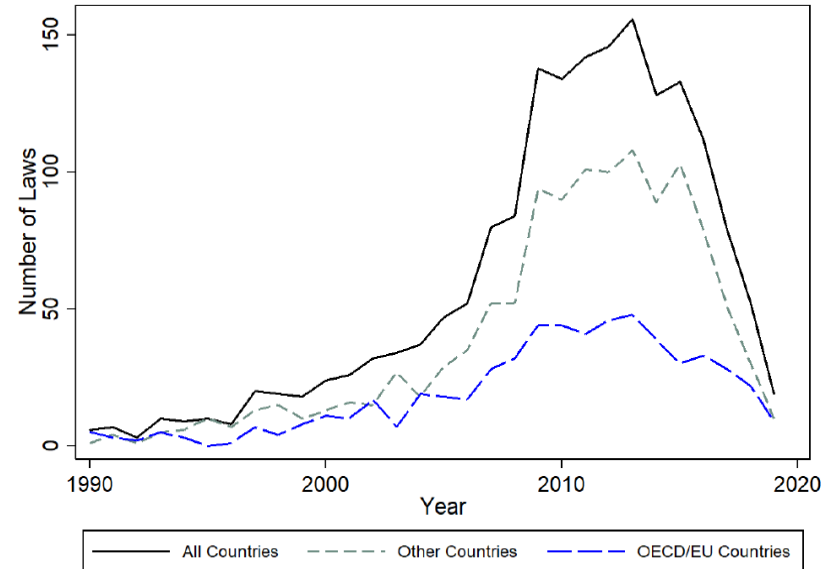
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Climate legislation peaked before the Paris Agreement

- Climate legislation took off in the 1990s
 - Only 35 climate related laws in 1990, many of them with broader purposes, e.g. energy efficiency
- Legislative activity peaked in 2008-13
 - Many industrialized countries passed framework laws in this period
 - Developing countries start issuing laws (often executive orders)
- Since the Paris Agreement, strengthening existing laws has been as important as passing new laws



Spain, UK and S Korea are the most comprehensive legislators

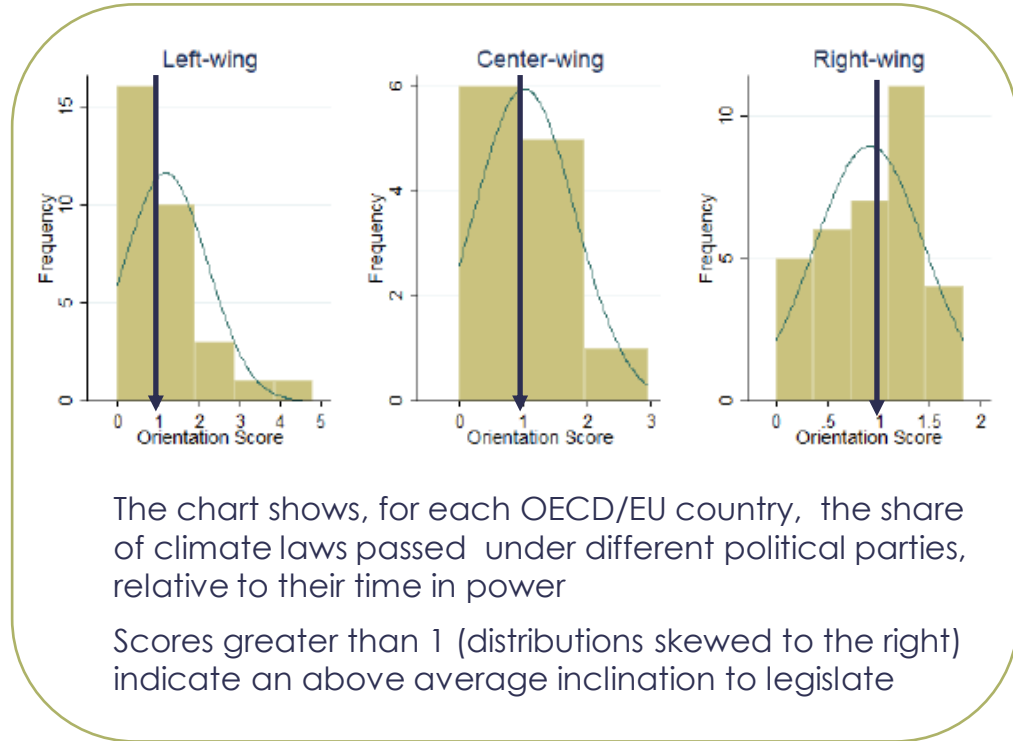
- Brazil (28), Italy (24) and Indonesia (22) are the G20 countries with most climate laws. Spain (38) has most laws in the OECD.
- Implementation matters, and “Rule of Law” indicators* can serve as a proxy of how well laws are put into practice.
- Adjusting for implementation and the time laws were passed, Spain, the UK and South Korea are the most comprehensive legislators

	Number of laws	Quality-adjusted law years
Top 5 G20 legislators	BRA ITA IDN KOR GBR	GBR KOR ITA DEU AUS
Top 5 OECD / EU legislators	ESP CHL ITA KOR GBR	ESP GBR KOR NOR ITA

* From Worldwide Governance Indicators

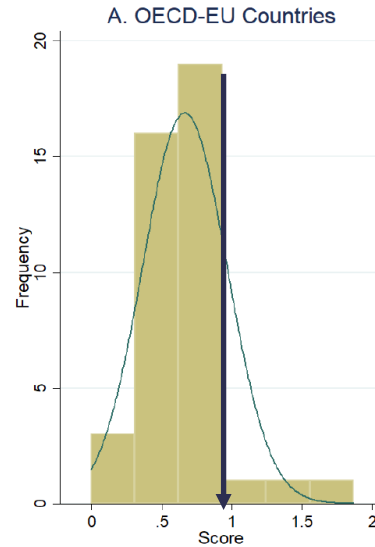
Climate legislation is not a partisan issue

- In many Anglophone countries climate change is highly partisan, with significant rightwing opposition
- However, globally there is a high degree of bipartisanship
 - The number of laws passed by governments of different orientations is proportional to their time in office
- Executive orders issued outside the OECD / EU group is the only case where right-wing parties act significantly less often



Climate legislation slows during economic downturns

- Interest in the environment wanes during recessions. However, additional climate action can also be an effective fiscal stimulus.
- Economic concerns seem to dominate the interest in a green fiscal stimulus.
 - The share of laws passed during economic slowdowns is lower than the time the economy was slow
- This has implications for climate action during the Covid 19 recovery



The chart shows, for each OECD/EU country, the share of climate laws passed during economic slowdowns, relative to the time this was the case. Scores less than 1 (distributions skewed to the left) indicate an aversion to pass climate laws in difficult times

Judges outside the US tend to rule in favor of climate action

- Court cases may be brought by plaintiffs seeking to strengthen climate action (“pro regulation”) or soften climate action (“anti regulation”)
- Outside the US between 1990-2019, judges have been inclined to rule in favor of stronger climate action
 - Ruling in favor of pro-regulation plaintiffs and against anti-regulation plaintiffs
- The opposite is true in the US (for the period 1990-2016)

	Total rulings	Pro climate rulings	% pro-climate
US	534	225	42%
Non-US	355	187	53%
Of which OECD / EU	300	153	51%
Of which non OECD	55	34	62%



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