

Climate Change Litigation – a global phenomenon



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An introduction to ClientEarth

- ClientEarth is a non-profit environmental law organisation
- We use law, science and policy to tackle key environmental challenges
- We work on climate change, energy, environmental justice, biodiversity, forests and health and environment

Law as a tool for positive social change

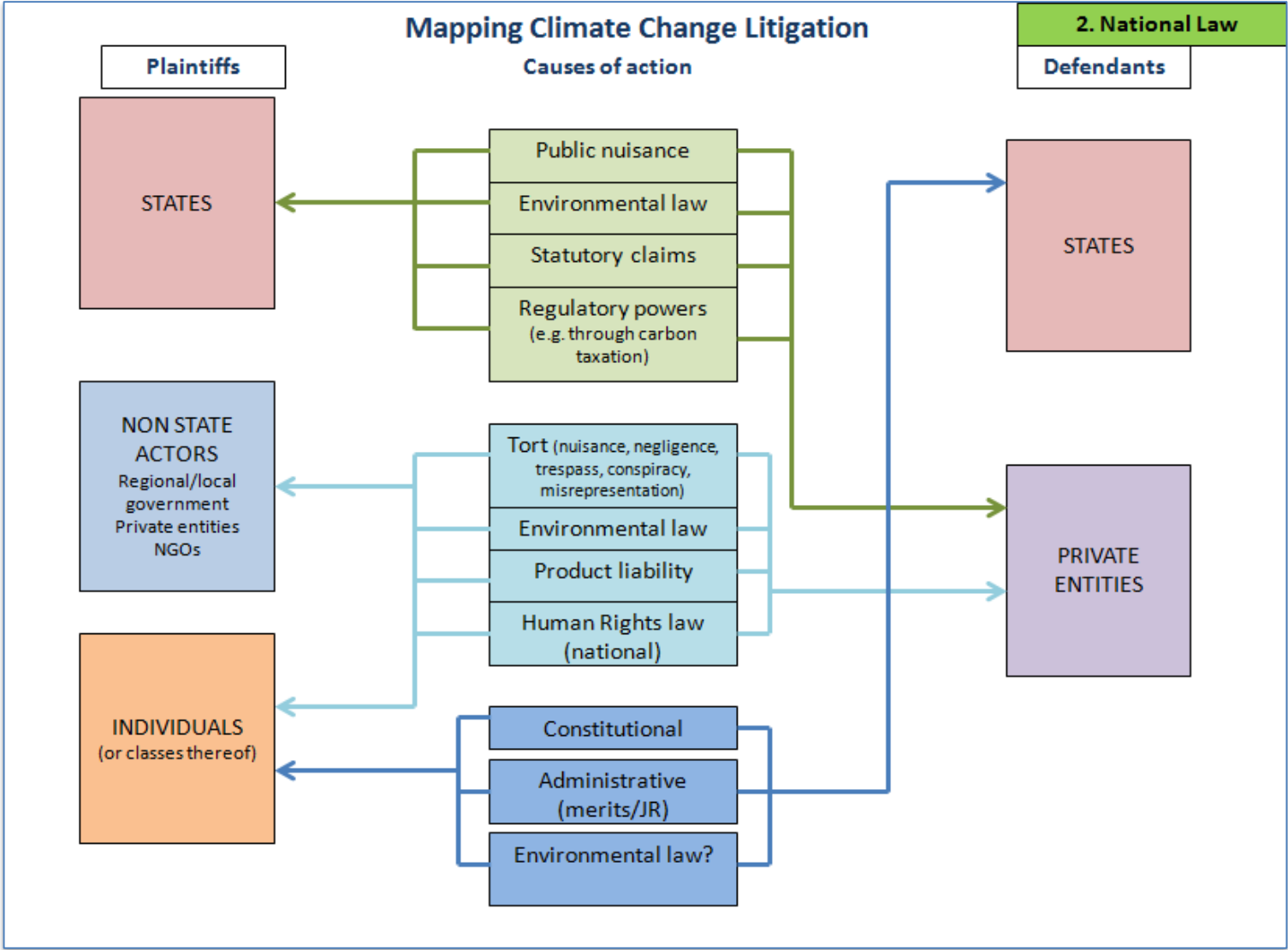
- We work on laws from conception to implementation and enforce them when governments fail to do so
- We help create the legal frameworks needed to make people and natural systems more resilient
- Our interdisciplinary teams include lawyers, scientists and research and policy experts

Climate change as a legal problem

- cumulative emissions since the industrial revolution
- multiple emitters
- trans-boundary and diffuse impacts
- impacts are deferred and their onset slow
- future adverse impacts projected to be significant
- economic impact of burning less fossil fuels and
- social-political factors

What is climate litigation?

Investors Regulators
'Carbon **Laws** Property owners
majors' Pension members Companies
Company law Land law Environmental law
Competition law **Defendants**
States Shareholders
Claimants Citizens
contract Municipalities Nuisance
Insurers Professional etc...
Negligence



What is climate litigation ?

What do you want it to mean?

ClientEarth Strategic Litigation projects:

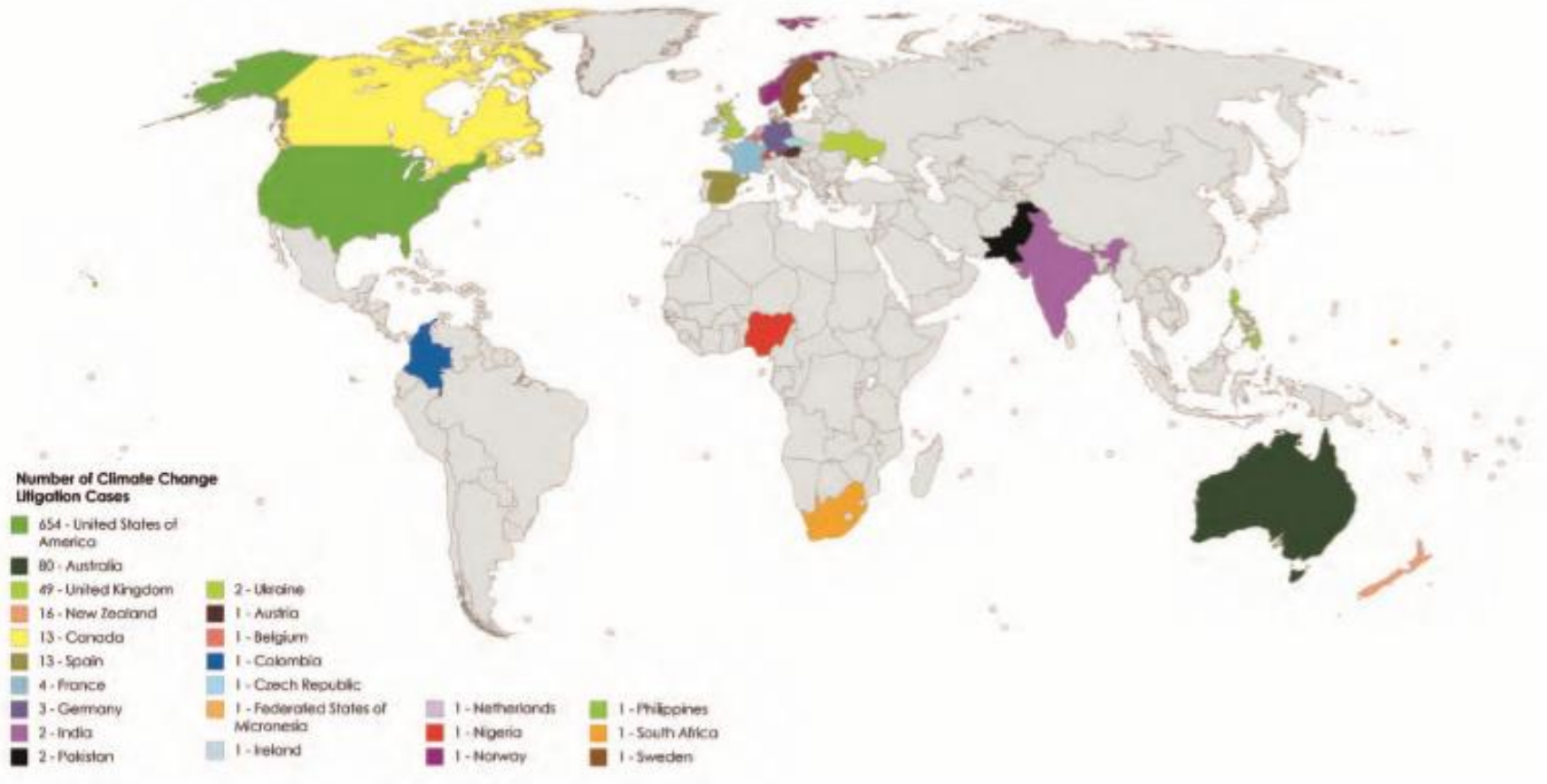
- Clean Air
- EU Energy & Coal
- Company & Financial
- Climate Accountability

2015 - a watershed year for climate change

Some key developments:

- *Urgenda Foundation v the State of the Netherlands* (June 2015)
- Bank of England PRA report on the impact of climate change on the insurance sector (September 2015)
- Paris Agreement (December 2015)
- Improvements in climate attribution science





Climate Litigation – a global snapshot

Claims against governments

- Urgenda Foundation v the State of the Netherlands
- Asghar Leghari v the Federation of Pakistan
- Colombian Youth Plaintiffs v Government of Colombia
- Other jurisdictions– Switzerland, South Africa, New Zealand, US (Our Children’s Trust), Ireland, Belgium, Norway, Uganda, England and Pakistan

Urgenda – findings of the District Court in the Hague

“Due to the severity of the consequences of climate change and the great risk of hazardous climate change occurring – without mitigating measures – the court concludes that the State has a duty of care to take mitigation measures. The circumstances that the Dutch contribution to the present global greenhouse gas emissions is currently small does not affect this”: at [4.83].

Urgenda - outcome

- The Dutch state must limit the State's annual greenhouse gas emissions to 25% below 1990 levels by 2020
- Government's appeal 28th May 2018
- Inspired claims in other jurisdictions
- Changed government policy

Leghari – actions of the Lahore High Court, Green Bench

The court declared in its order of 4 September 2015:

“Climate Change is a defining challenge of our time and has led to dramatic alterations in our planet’s climate system. For Pakistan, these climatic variations have primarily resulted in heavy floods and droughts, raising serious concerns regarding water and food security. On a legal and constitutional plane this is [a] clarion call for the protection of fundamental rights of the citizens of Pakistan, in particular, the vulnerable and weak segments of the society who are unable to approach this Court.” : at [6]

Colombian Youth Plaintiffs

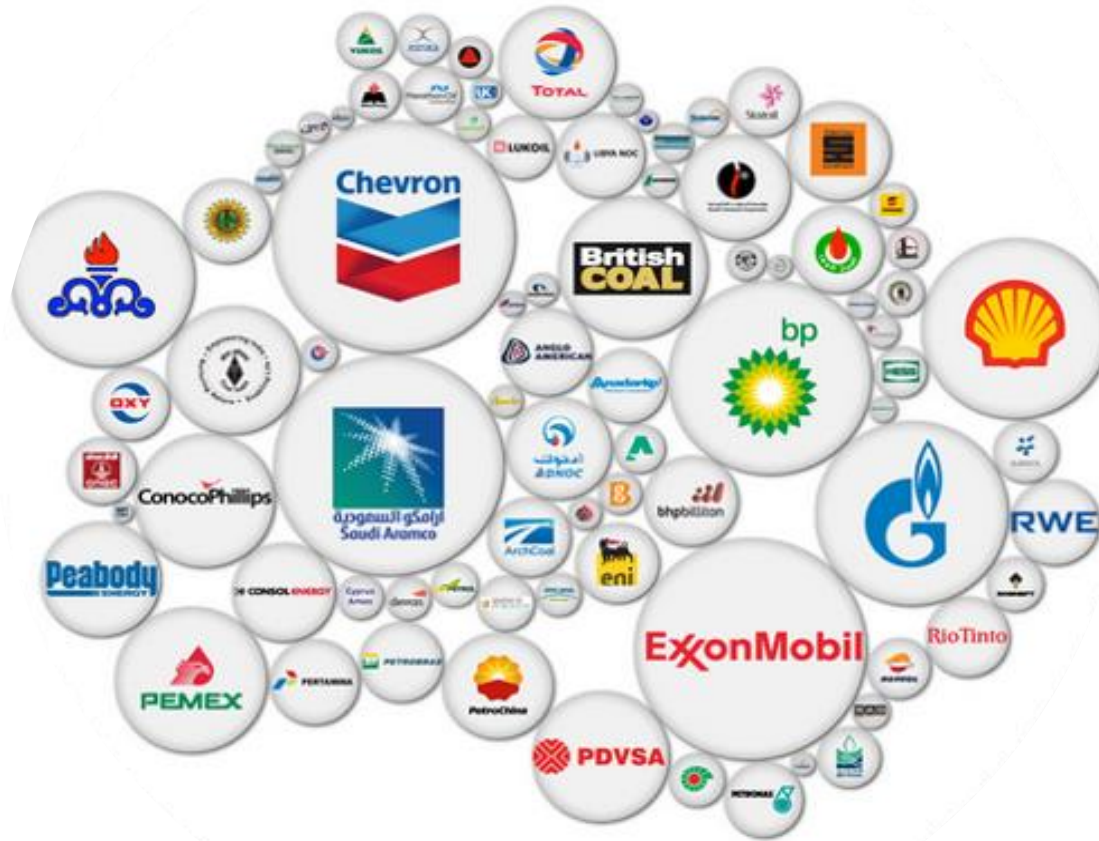
Supreme Court of Justice of Colombia on 5th April 2018

Granted the plaintiffs' petition and ordered the government to create an "intergenerational pact for the life of the Colombian Amazon".

The government was given 4 months to present an action plan to reduce deforestation in the Amazon – the main cause of climate change.

Climate Litigation – a global snapshot

Claims against private actors



Climate Litigation – a global snapshot

Claims against private entities

- *Lliuya v. RWE AG* (Germany)
- *Conservation Law Foundation v. ExxonMobil* (US)
- 13 US cities and local authorities against carbon majors (US)
- *Abrahams v Commonwealth Bank of Australia*

Other legal interventions

- Greenpeace petition to the Philippines Commission on Human Rights inquiry
- IIDMA and CIEL parallel report to the Committee on the Rights of the Child
- WCEL ‘Climate in our hands’ campaign
- Inter-American Commission on Human Rights advisory opinion

The future?



Thank-you

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