

● REPORT

An Overview of Youth-led Legal Mobilization Cases in Response to the Environmental Crisis

Stockholm, 20 June 2023

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An Overview of Youth-led Legal Mobilization Cases in Response to the Environmental Crisis

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1 Introduction

Over recent years youth has emerged as an influential voice on the topic of climate change, raising the alarm about climate change-related risks and calling for policy action. Youth have been active and mobilising across squares and streets from where they called upon those in power to act on their duties to protect citizens from environmental harm and to secure a sustainable future. Young people have been mobilising in many different ways. In addition to street protest, youth of different ages, including children, have been turning to courts to sue national governments for noncompliance with national and/or international law, or conventions. Over the past years, there has been a notable increase in case of youth-led litigation at a global scale (Kotzé and Knappe, 2022).

The use of court litigation as a tool to exert pressure is a mobilisation strategy already known and is also referred to as legal mobilisation. This is understood to be a process where an individual, or a group of people and other actors, call upon legal norms to assert certain rights and/or to pursue a process of change. They do so by filing a court case against an entity as is the national government, a company or other who is understood to be acting against those legal norms.

Legal mobilisation has been often used by non-governmental organizations to pursue justice and these are seen to affirm rights granted by national and international agreements already in place (Rodela et al., 2017). Among all known types of mobilisations, legal mobilisation is the most demanding in terms of resources, timelines involved, and expertise needed. Also, according to some scholarship legal mobilisation is quite effective as it leverages the power of the judiciary and thus operates at the level of agreed and known institutional structures to pursue compliance and accountability (Kotzé, 2021).

The steady increase in youth-led litigation on a global scale in recent years is an area of interest for our research. It not only indicates the growing influence of youth as a social group who is active in holding those in power accountable, but also highlights how youth is experimenting with political action across various platforms. Youth-led litigation appears to be emerging as a significant tool for promoting the representation and inclusion of young people's voices in contemporary decision-making processes. For example, considering the current absence of a legal framework that allocates rights or imposes duties pertaining to future generations, it is intriguing to observe how some of these ide-

as and concepts are being incorporated into litigation: several of the cases reviewed comments on or advances claims in relation to our duties towards to future generations.

Despite the increasing importance of youth-led litigation, there has been limited research on the global landscape of youth-led litigation and its impact on governance outcomes and policy initiatives in the context of intergenerational justice. Most of the currently available scholarship on these topics is predominantly within legal studies and focuses on the court cases themselves. While this scholarship makes important contributions to understanding the potential of litigation as a mobilization strategy and the role of courts in present-day democracy, questions regarding the governance outcomes of litigation remain largely unaddressed. This is particularly true for questions concerning how litigation contributes to national and international debates about rights of future generations, about what more sustainable futures are, and about ways to advance on intergenerational equity and justice.

In this report, we present the outcomes of a project activity where we sought to map and compile information on litigation cases. The result of this activity is a descriptive database summarizing the status of youth-led litigation cases as of April 2023. In this document, we provide a summary of that information and highlight a few observed trends, which can serve as a resource for those interested in studying youth-led mobilization and its governance outcomes for a more sustainable future. The next section provides methodological information, followed by descriptions of the data, and we conclude the report with several considerations and suggestion for future research.

2 Methodology

The data presented in this study were gathered through data extraction from secondary sources available online. The types of secondary sources used included a combination of official documents such as court petitions, websites, and news sources, both for triangulation purposes and to enable the completion of the predetermined descriptive variables.

2.1 Selection Criteria and Case Mapping

The study set out to map global youth-led climate litigation. Before initiating the mapping process, we started by defining the criteria's used for the identification of cases. The first criteria defined was for these to be cases

filed with courts against national, federal, or regional governments, and launched any year by youth, children or organisations clearly representing the interest of children or youth. Here, an early delimitation was made to focus exclusively on legal mobilisation in the form of petitions filed with courts. This means that other forms of legal mobilisation such as formal complaints filed with government agencies, but outside of judicial courts, were not included in the collected sample group.

A second criteria was the age span of those submitting a court case, also known as plaintiffs. We initially defined the age limit to be youth aged 22 or younger in the beginning of our searches in 2022. In 2023 this was revised resulting in the raise of the upper age limit to 29 years old. We considered that this limit corresponded better with the definition set by organisations such as the European Union and OECD as well as our own understanding of what defines the social category of youth within the ambitions and scope of our research project “Planning with Youth”.

We started the mapping process with searches on youth-led litigation cases through the search engine Google by using selected key words (see visual 1) e.g., youth + sues government + country. Searches were done in the different languages mastered by the project team members (i.e. English, Italian, Spanish, Portuguese, Croatian, Slovenian and Hungarian). Each case was cross-checked with at least two sources, including reliable news sources (e.g. Reuters and The Guardian), the official websites of relevant organisations (e.g. Our Children’s Trust) and the databases of Sabin Centre and the Grantham Research Institute.

Searches were first initiated by a team member in January 2022, compiling a first sample of 36 identified cases. The initial sample of cases was reviewed, validated, and revised as per updated criteria in January 2023. During the spring 2023, the population of identified cases meeting criteria was set to a total of 53 youth-led climate litigation cases with April 18th 2023 as our present last date of searches. After final revision, two more cases were removed from the database in June 2023 based on not meeting our selection criteria of being filed with judicial courts. However, while not meeting this specific criterion, these and other similar cases are still interesting representations of legal mobilisation to be studied further by scholars. These include the case of *Sacchi, et al. v. Argentina, et al.* where a formal complaint was filed with the UN Committee on the Rights of the Child.

Activists Profile	Mobilisation Strategy
Youth	Legal Cases
Youth led	Litigation
Kids	Legal Mobilisation
Children	Suing
Young people	Court Cases
Young generations	

Table 1. Key words used for finding legal cases.

2.2 Validation of the identified cases

Once the selection of cases had been completed, we began searching for information about variables of our interest about each selected case and included that information into Excel spreadsheet. That information was mostly descriptive including; the name of the legal case, what year the petition was submitted, what year the court case was completed (where applicable), the legal status of the case (e.g. decided or pending), country where defendant/s is located, continent where court/s is located, at which court the petition was filed, the principal laws referenced, whom the youth plaintiffs sue, the age span of the plaintiffs, the number of plaintiffs regardless of age, the claims advanced in the petition, their position on justice as well as media, article and website sources.

The descriptive data was collected from petitions, news sources and official websites of relevant organisations, including the youth movements own websites when available. Information appearing in other languages than English was translated before including it into the database. The work with the Excel spreadsheet was finalized on May 7th with the open access archiving of the inventory of cases (see Data Availability section below).

2.3 Limitations

While extensive searches were carried out in an attempt to account for all youth-led climate litigation cases globally, we recognise that the identified sample may not capture all cases. We acknowledge that some cases may not be readily available online and as our searches may

have failed to identify cases in other languages than those covered by our team. Language barriers constitute a limitation as our searches were confined to the seven languages earlier mentioned, with the likelihood of missing out on cases not available in those languages. We also recognise that by setting the criteria for each case to include a petition filed at a court, we excluded considerations of other legal claims such as complaints or actions outside of institutionalized judicial structures which are also interesting and relevant for the subject matter of intergenerational justice.

3 Results and Discussion

Based on the earlier described selection criteria, we identified a total of 51 climate litigation cases filed by, or in representation of children and youth as the plaintiffs. The following section summarizes our findings and some of the trends we have observed in the dataset.

3.1 Geographical distribution of cases and litigation trends

The process from searches to coding based on the selection criteria of climate related court cases against national, federal, or regional governments, launched by youth, children or organisations representing their interests resulted in 51 identified cases. The identified sample of cases cover all continents with the largest portion located in Europe (49 %) and the second largest in North America (25%). South American cases made up 12 %, Asia 6% and Africa and Oceania each stood for 4 % of the total cases (see figure #1 below).

We identified four case in which the defendants came from multiple countries, coded as “Multiple”

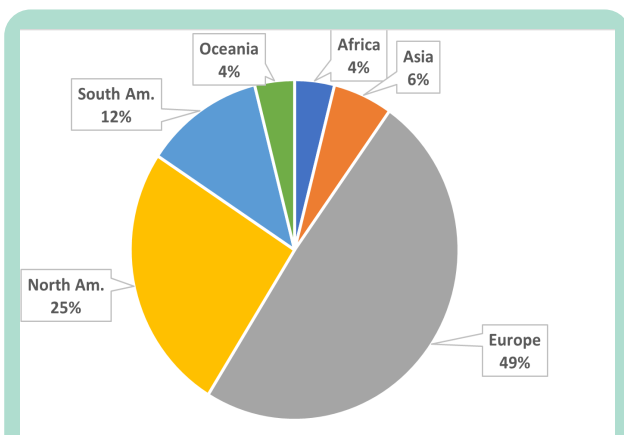


Fig.1 Distribution of the 51 identified youth climate cases per continent where court/s is located

within the country variable. In particular, two countries stood out from the sample with a total count of 12 litigation cases filed in Germany and 9 cases noted in the United States, in tandem constituting 41% of all cases identified to date (see figure #2 below). These two cases stand in contrast to the rest of the identified cases given that we did not note more than two youth-led climate cases filed with courts in any other country.

The plaintiffs in the studied cases ranged in age from 2 to 59 years old at the time of filing the lawsuits. In eight instances, the petitions included only one youth plaintiff, aged between 7 and 24 years old, and in six of those cases, the youth was the sole plaintiff. The remaining cases were filed by a plurality of youth plaintiffs ranging from 2 plaintiffs to 7000 plaintiffs.

Four cases were identified in which plaintiffs crossed national borders by bringing multiple countries to international court. These cases are Duarte & Others v. 33 EU States, filed in 2020; De Conto v. Italy & 32 other States and Uricchio v. Italy & 32 other States, both filed in 2021; and Soubeste & Others v. Austria and 11 other countries, filed in 2022. The cases filed in 2019 and 2022 also had youth plaintiffs representing different countries. The remaining identified cases were filed by

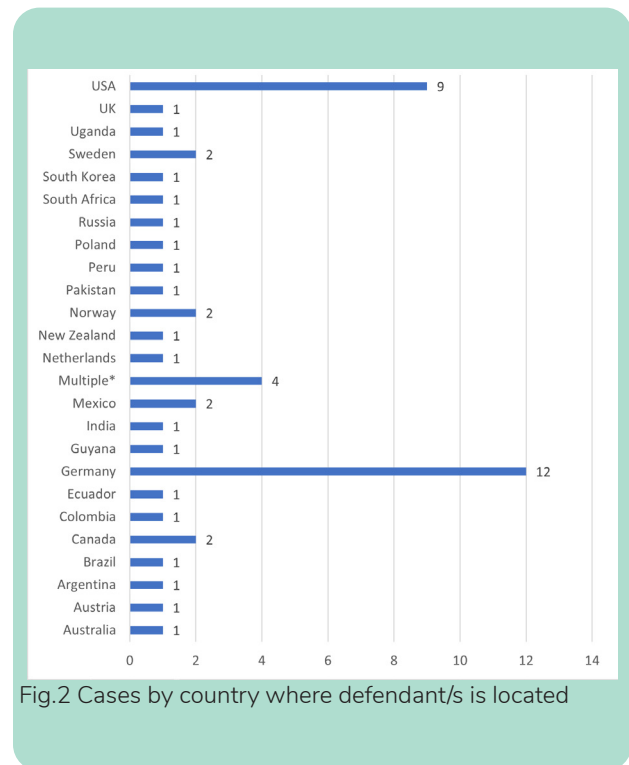


Fig.2 Cases by country where defendant/s is located

citizens within their own national judicial systems and brought to one or several courts within their respective countries.

We observed a gradual increase in litigation cases

between 2018 and 2021, with an unprecedented peak of 19 cases filed in year 2021, accounting for more than one-third of all identified cases to date in that year. We assume this trend to have been influenced several occurrences. One could be the growing number of youth activism globally following Greta Thunberg’s climate strikes in 2018. A second occurrence to consider is the way national health prevention policy, following the Covid-19 pandemic, have played out on youth mobilization. Given that many states have imposed lock down and street action was no longer possible to the extent it was before this might have influenced choices

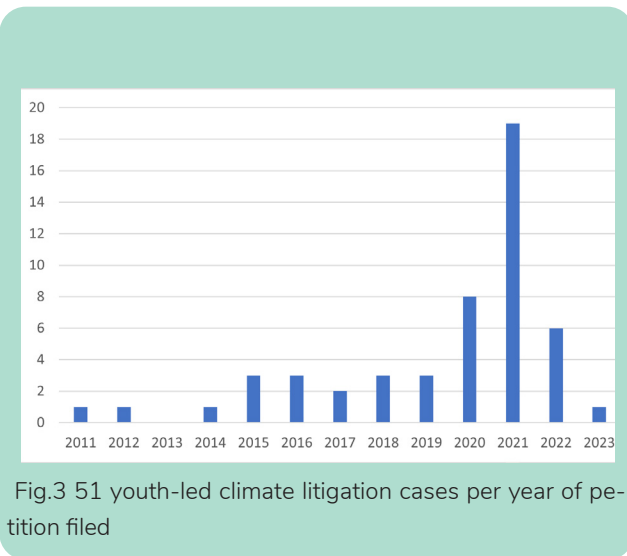


Fig.3 51 youth-led climate litigation cases per year of petition filed

in mobilization strategies with youth turning to climate litigation.

On a different note, our study reveals a negative trend in the number of cases filed since the peak in 2021 (see Figure 3 above). A partial explanation for the decline may be that recent cases are not yet publicly available or substantially reported in publicly accessible online sources, which may have affected our search results. However, it would be interesting to examine other potential factors, such as the mass dismissal of youth-filed litigation cases in Germany in 2022 and the gradual easing of pandemic-related restrictions starting in 2021.

3.2 Claims advanced in the selected cases

The claims advanced by the youth plaintiffs and their representatives encompass a wide range of aspects related to the impacts of climate change. However, there are some overarching similarities observed across the litigation cases. Specifically, we have identified a general trend where the allegations center around the governing entity’s alleged failure to implement adequ-

ate measures to protect the population from the risks posed by climate change, or the adoption of policies that may lead to harmful consequences for present and future generations. While the specific arguments may vary across cases, they share a common contention that judicial intervention is necessary due to the governing body’s perceived failure in fulfilling its duties towards the citizens.

In support of these claims, the litigation cases often draw upon legal references. This typically includes citing constitutional provisions related to the right to life and a healthy environment, relevant national and state-specific environmental protection, climate, and energy laws (where applicable), as well as international climate regulations such as the Paris Agreement.

In addition to the legal arguments, the documentation submitted also includes moral arguments, particularly emphasizing the protection of citizens, especially the most vulnerable individuals impacted. A significant majority of cases highlight the exceptional vulnerability of youth and children, underscoring their heightened susceptibility to the risks associated with climate change.

Likewise, the claims put forward in the litigation cases incorporate arguments that emphasize the disproportionate impact expected on younger citizens and future generations if the sued governing entity fails to undertake further measures.

Essentially, the claims rely on a combination of moral and legal obligations to assert that the responsible governing bodies have breached their duties and should be compelled by the court to implement additional measures.

3.3 General observations

In this section we summarize some more general observations. During the mapping of youth-led litigation we observed that in addition to those cases that have been brought to courts there is also a number of cases which have been dismissed by courts and did not get the chance to undergo judgment. The cases dismissed are not few and could be as much considered to be part of strategic litigation seeking to push current norms of what and how can be taken to courts.

We observed significant variation in the time it took for courts to reach a decision, with some cases being settled within a year while others remained pending for several years. Notably, certain events, like the mass dismissals in Germany during 2022, seemed to establish a precedent that facilitated quicker dismissals in

similar cases across different countries. Regarding dismissals, we noted how courts cited various reasons. In several instances, the dismissals were partly due to the court's difficulty in establishing a direct link between the cause and effect. Specifically, courts had hard time to establish a link between the defendant actions (i.e. governing bodies' policies or lack of adequate measures) and the physical and psychological harm suffered by the plaintiffs.

In a specific case from Australia titled *Sharma and others v. Minister for the Environment*, where the court dismissed the plaintiffs' main demand to declare a duty of care of the Minister for the Environment, the court took steps to protect the represented children's future ability to pursue legal proceedings. The court ordered that the proceeding not continue as a representative proceeding before dismissing the application. This decision was motivated by the recognition that future proceedings could yield different results due to changing circumstances and the evolution of relevant laws. The court acknowledged the significance of keeping open the possibility of pursuing a declaration of duty of care against the Minister of Environment in light of the future risks posed by the carbon dioxide emissions resulting from the approved expansion of the concrete coal mine .

However, further examination of the outcomes and implications of the concluded court cases is necessary to identify potential patterns and assess the impact of these youth-led litigation cases.

4 Conclusion

The mapping exercise revealed several key themes and trends in youth-led litigation. By engaging in litigation, young people are provided with a platform to actively participate in shaping public discourse and advocating for their rights and interests within established institutional structures and democratic systems. It is of interest to note how youth-led litigation might be a bottom-up process but in its form is not disruptive. Rather, legal mobilisation is about seeking compliance and leveraging on established procedures. As such it acts on legal and moral norms that regulate democratic societies and at a more fundamental level it does not challenge established power structures. The cases we considered we in fact observed how plaintiffs described and acknowledged the defendant position of power while describing themselves as a group that is vulnerable with no/limited power of influence and in need to protection relating on the subject matter.

Though, youth-led litigation is interesting and innovative from another viewpoint as it has the potential to challenge conventional legal doctrines and promote more inclusive and participatory approaches to decision-making. The mapping of youth-led litigation underscores the significant impact that litigation can have in advancing the representation and inclusivity of youth voices within legal processes.

However, despite the insights gained from this and other studies of youth-led litigation, our current understanding of the governance outcomes of litigation remains still rather limited. Further research is needed to delve into these questions and unpack the potential effects of litigation on governance processes. Additionally, future research endeavours could explore how youth voice is incorporated and shapes litigation more broadly, particularly in the context of sustainable futures and intergenerational relations. Such investigations would contribute to a more comprehensive understanding of the role and potential of youth-led litigation in promoting social and legal change.

Data Availability

The dataset titled "Inventory of Youth-led Climate Litigation V1_20230507.xlsx" has been deposited in Zenodo. It is available under the following identifier <https://zenodo.org/record/7907901> and is available under the terms of the Creative Commons Attribution 4.0 International license (CC-BY 4.0).

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Youth Plan
2023