P208 / Lawsuits as an instrument of environmental and climate policy

Topic : Politics, Institutions and Political Regimes

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GENERAL OBJECTIVES, RESEARCH QUESTIONS AND SCIENTIFIC RELEVANCE

Over the past ten years, lawsuits have increased in both their number and significance as an instrument of environmental and climate policy. Environmental and climate litigation is not merely a legal process; it also gives expression to social and political conflicts and brings them into the judicial arena. Issues under consideration include distributive and intergenerational justice, local impacts and national or international strategies, the relationship between the economy and the environment, the handling of ‘green-to-green’ conflicts, and the responsibilities of the state, the private sector and society in climate policy.

This is reflected, firstly, in lawsuits that challenge the compatibility of existing environmental and climate protection law with higher-ranking law (constitutional law or human rights), often in the form of constitutional complaints lodged by individuals before constitutional courts. Secondly, private-law lawsuits are being brought against companies, seeking compensation for damage caused by climate change or seeking an injunction against actions harmful to the climate (both fall into the category of climate litigation); it remains to be seen whether states affected by climate change, such as Nepal at present, will in future successfully hold other states that have contributed to climate change liable under international law (see ICJ opinions). Thirdly, recognised environmental organisations are bringing legal actions on the basis of the Aarhus Convention to ensure compliance with existing environmental or climate protection law (class actions).

Research has documented the rapid growth of climate and environmental litigation and examined the strategic character of climate litigation. Yet, important research gaps remain regarding actor constellations, the institutional contexts shaping litigation strategies, and the effects of litigation on policies, implementation, and environmental outcomes. These research gaps raise a number of questions that cut across climate and environmental litigation:

· Who is bringing the claims and who, if anyone, is behind them? What motivates the claimants? Why are they bringing these claims and why do they choose specific types of action?

· To what extent, and why, are legal frameworks structured differently as legal opportunity structures, thereby hindering or facilitating the bringing of claims?

· What role do strategic lawsuits play, and does this vary depending on the subject matter of the claims?

· What effects do lawsuits have, both directly on policies, law enforcement or environmental quality, and indirectly, for example on the dissemination of certain interpretative frameworks and concepts, the assessment of risks and the adaptation of action strategies?

· What role do lawsuits play in the current backlash against environmental and climate policy?

CALL FOR PAPERS

In our panel, we aim to take a broad look at environmental and climate litigation and foster a better understanding of how litigation shapes political processes in both environmental and climate policy across different institutional contexts. Research has documented a substantial increase in the number of climate and environmental lawsuits in recent years and highlighted their strategic dimension. Building on these insights, this panel seeks to move beyond the question of whether climate and environmental litigation can be strategic and instead explores how legal action shapes policy processes and outcomes. In line with the research questions outlined above, we therefore invite contributions addressing the actors, institutional contexts, strategies, and consequences of environmental and climate litigation from a policy perspective. Contributions to our panel may address, but are not limited to the following issues:

· Actors in environmental and climate litigation, their motives, legal claims and strategies;

· Legal opportunity structures, their design and effect on litigation;

· Variation in cross-national and cross-sectoral patterns of litigation;

· The role and effect of strategic litigation in climate and environmental policy;

· The effect of environmental and climate litigation on policy processes, law enforcement and environmental quality;

· Backlash litigation in the context of climate and environmental policy.

For our panel, we welcome both conceptual and empirical contributions, focusing on specific countries or comparative analyses. We are open to different methodological approaches and welcome qualitative, quantitative, and mixed-methods research designs. We particularly encourage contributions linking climate and environmental policy litigation to broader debates in public policy research, including questions of institutions, social mobilization, and policy dissemination. By bringing together scholars working on different forms of environmental and climate litigation in different institutional settings, the panel seeks to advance a more comprehensive understanding of litigation as a mechanism of political influence and potential policy change.