

Reorienting climate litigation in a time of backlash

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Restrictions on civil society may drive climate activists to shift from protest to litigation. However, challenges to judicial independence, deregulation, and anti-climate litigation mean that activists need to consider the conditions under which litigation leads to strengthened climate ambition and implementation.

In April 2025, United Kingdom-based climate activist group Just Stop Oil decided to end their three-year campaign of civil resistance, vowing their fight would continue “in the courts and in the prisons”¹. This decision brings into focus two current trends in climate advocacy. The first is that climate activists face shrinking civic space. In the UK, recent legislation has made it increasingly risky to engage in disruptive peaceful protest, with many protesters facing long prison sentences. Many other democracies are also toughening punishment of climate protesters, including Germany, Italy, the Netherlands, and Australia².

The second trend is a sharp uptick in climate litigation. The past decade has seen a marked increase in court cases against governments and companies for contributions to climate change. Over 3,000 climate-related lawsuits have been filed globally, of which more than two-thirds were initiated between 2015 and 2025 (see Figure 1)³, the majority of which were filed by civil society organisations. Although not all cases align with climate objectives or successfully strengthen ambition or implementation⁴, activists are using increasingly sophisticated legal strategies and expanding legal precedents.

These trends are not unrelated. Given growing restrictions on public protest, litigation seemingly offers climate activists a safer route to achieve their aims. Yet litigation as an activist strategy is currently also under threat. Many governments that repress civic space are also restricting judicial space, politicizing courts or defying judges' rulings, and are rolling back climate regulation. Moreover, litigation is increasingly used to *suppress* climate activism, sometimes resulting in steep fines for advocacy groups. Advocates thus face a dilemma: Just as civic space is narrowing in many countries, so too are the legal institutions facilitating climate litigation. Climate activists thus need to understand the conditions under which litigation can be effective in advancing their cause in the current context.

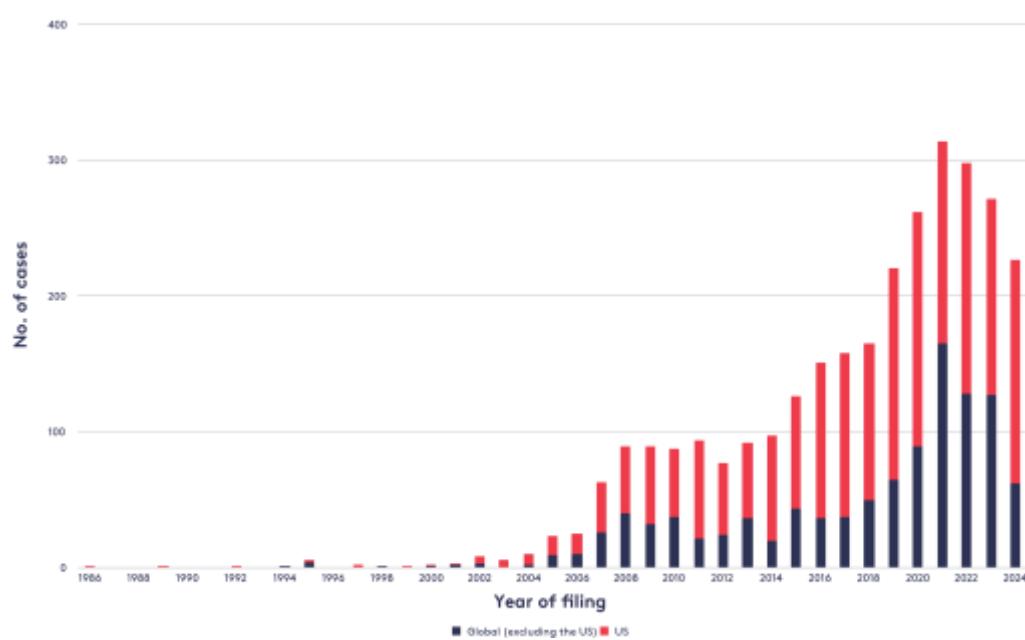


Figure 1: Number of climate change litigation cases, 1986-2024⁴
Blue – Non-US cases; Red – US cases

Shrinking civic space

As the climate crisis worsens, effective climate activism becomes more essential. Around the world, climate protests are on the rise⁵—but so too is the backlash. In both democracies and

autocracies, activists are increasingly facing repression, proscription, and criminalization, creating significant barriers to their efforts and raising urgent concerns about civil liberties and democratic rights. This repression takes at least three forms.

One is the *enactment of anti-protest laws* which criminalize climate groups, establish new crimes, or increase punishments for crimes such as public nuisance. A 2024 UN report found that state repression of environmental protest increasingly targets direct action aimed at causing disruption in public spaces, such as occupying construction sites or slow-marching to block traffic⁶. Other reports document harsher penalties for peaceful protests that particularly target climate groups⁷. Italy's New Security Decree (June 2025) introduced stricter penalties for protest-related offences, including property damage and disruptive sit-ins. German human rights and environmental organizations also report growing criminalization and lengthy imprisonments of peaceful protesters².

A second form of repression is *increasing police power*. The UK's Police, Crime, Sentencing and Courts Act 2022 gave the police wider powers to restrict and break up protests. The Public Order Act 2023 lowered the threshold for classifying protests as "disruptive" and enabled police to prevent protests next to fossil fuel infrastructure. Anti-protest laws, many of which increase police powers, have been adopted across the globe, including in Australia, India, Peru and the United States. A growing proportion of climate protests around the world involve arrests. One of the highest ratios is found in Australia, where one in five activists are arrested, followed by the UK (17%)⁸. Non-violent protesters are also increasingly met with police violence in many countries.

Third, climate activists increasingly face *direct attacks*. According to a 2024 report from Global Witness, at least 2,106 environmental defenders were killed worldwide between 2012 and 2023⁹. Given these trends, the UN Special Rapporteur on Environmental Defenders lamented in 2024 that "the State response to peaceful environmental protest is increasingly to repress, rather than to enable and protect, those seeking to speak up for the environment"⁶.

Challenges in court

As the risks associated with public protest grow, climate defenders may be inclined to turn to litigation as a safer and more strategic way to advance climate action. But while the streets appear increasingly inhospitable to climate activists, the law and legal systems also appear to be working increasingly against them. Three broad legal trends in many countries pose challenges for climate litigants.

The first is the *erosion of judicial independence*. Effective climate litigation depends on an independent and strong judiciary that can hold politicians and corporations to account. But across many democracies, the rule of law is under pressure.

In the United States, the second Trump Administration has openly defied the courts, copying the playbook of autocratic leaders. The President and several Republican members of Congress have called for impeaching federal judges who block their policy agenda¹⁰ and threatened to defund courts¹¹. In Poland, the election of a far-right president in June 2025 has halted recent efforts to reverse years of judicial capture by the Law and Justice party. More than 25% of Polish judges—including a majority on the Supreme Court—now hold appointments tainted by political interference¹².

The second challenge is *deregulation*. The rise in climate litigation has been enabled by a proliferation of climate legislation, which expended the procedural and substantive basis for bringing cases. However, this foundation is now under threat as many governments are rolling back climate policies, eroding or undermining the ‘legal stock’ on which climate litigants can draw

In the United States, many federal climate policies were scaled back or eliminated during the first Trump Administration. As documented by the Climate Backtracker, hosted by Columbia Law School (<https://climate.law.columbia.edu/content/climate-backtracker>), the second Trump Administration has taken further steps to repeal statutory provisions, regulations, and guidance pertaining to climate change, supported by congressional efforts. In May 2025, the Brazilian Senate passed a bill proposing to dismantle regulations in farming, mining, and energy. If it becomes law, this will amount to a significant rollback of climate policy.

In Europe, the trend can seem more insidious. One year after the EU adopted landmark legislation targeting companies’ climate footprints, the European Commission is engaged in a drive to “simplify” these policies through an “Omnibus” package of legislation, purportedly to strengthen the bloc’s international competitiveness¹³. Meanwhile, some national governments that were once climate policy pioneers nominally retain net-zero targets while effectively stalling or reversing policies for achieving them. For instance, the Swedish government in 2023 adopted a new approach to reaching net zero, which in practice amounted to scaling back key regulations. Consequently, the Swedish Climate Policy Council found in March 2025 that policy changes had led to an unprecedented increase in domestic greenhouse gas emissions¹⁴.

A third challenge is that litigation is increasingly used to *stymie climate action*. Notably, strategic lawsuits against public participation are being used to silence activists and lawyers

fighting climate change¹⁵. For example, in March 2025, a North Dakota jury found Greenpeace liable for US\$660 million in damages to an American oil and gas company, Energy Transfer for its involvement in protest against the Dakota Access Pipeline. More generally, of the 226 climate-related cases filed in 2024, 60 featured non-climate-aligned arguments. The majority of these were filed in the United States. These cases include challenges to new rules on climate-related financial disclosures, and lawsuits targeting voluntary climate pledges and sustainability labels under anti-trust and fiduciary duty laws⁴.

Implications for climate litigation

As the risks associated with public protest grow, climate defenders may consider litigation a safer and more strategic tool for advancing climate action. However, climate litigation itself faces urgent and evolving challenges.

The combination of shrinking civic space, deregulation, and a less hospitable judicial system in many countries suggests that future climate litigation may be forced into a more defensive posture, aimed at preserving rather than expanding climate ambition. Rather than focusing solely on novel or expansive claims, litigation might be more effective when it seeks to protect existing laws, enforce commitments already made, and prevent further backsliding. Legal efforts may thus increasingly focus on safeguarding hard-won regulatory gains, confronting institutional overreach, and insisting on proper legal process. Environmental organizations are already challenging the way in which the European Commission developed the Omnibus legislative package, and President Trump's Executive Orders face mounting legal challenges. In this defensive posture, human rights frameworks and constitutional principles play a key role, offering durable legal hooks for defending both environmental standards and the rights of those who advocate for them.

Equally important is the protection of the people behind the lawsuits. Legal strategies must be paired with efforts to shield climate defenders from harassment, intimidation, and counter-litigation. Building broader coalitions across movements—linking lawyers, activists, academics, and affected communities—can help to distribute risk, build public support, and sustain momentum.

In short, litigation in an era of backlash must be smarter, more deliberate, and deeply rooted in transnational solidarity with movements for democracy. Even under political duress, the law can be a powerful channel for accountability and change—but only if the structures that uphold it are themselves defended. The future of climate litigation will depend not just on

what is argued in court, but on the broader political conditions that allow the rule of law—and civic voice—to survive and thrive.

Competing interests

The authors declare no competing interests.

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