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Strengths and Shortcomings of Climate Change Litigation: An Empirical Analysis of Stakeholder Perspectives

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Abstract: This article investigates how diverse actors - judicial authorities, policy officials, and civil society representatives - perceive the potential benefits and shortcomings of climate change litigation when anchored in human rights frameworks. Grounded in the Horizon Europe “HRJust” project, our study employs a mixed-methods approach combining semi-structured interviews and a research survey. We identify core advantages of rights-based litigation, including its ability to frame climate as a human rights issue, pressure policymakers, raise public awareness, empower civil society, and advance legal development. Conversely, stakeholders flagged significant gaps, including restricted access to justice, inadequate financial and technical resources, limited judicial climate knowledge, weak legal frameworks, and insufficient enforcement mechanisms. By synthesising stakeholder-informed insights and comparing them with the relevant academic literature, this article aims to add an empirical perspective on climate change litigation.

Keywords: Human Rights Justifications; Civil Society Engagement; Gender; Intersectionality; European Union

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1. Introduction¹

Climate change litigation has been on the rise in recent years: as of December 2024, over 2,953 climate-related cases had been filed (Warren, 2025) in 65 jurisdictions – a massive increase from just a few hundred cases five years earlier (UNEP, 2023)) – and with at least 355 new climate cases filed only in 2024 (Tigre & Barry, 2025). These cases span national courts, international and regional tribunals, cutting across climate change, human rights and other domains. In this context, actors increasingly invoke human rights arguments (e.g. right to life, health, a healthy environment) to frame states' climate obligations (Merner, Phillips & Mulvey, 2024). On the other hand, states are also using and developing human rights justifications in climate change policy and legal defenses (Cristani & Fornalé, 2025a).

In the framework of such developments of climate change litigation, what are the perceived advantages and gaps of judges, arbitrators, policy officers, associations and civil society representatives? Is climate change litigation a good instrument for advancing climate change instances and/or human rights arguments connected to climate change?

Numerous studies highlight climate litigation's potential to fill governance gaps and to mobilize political change. In particular, rights-based climate litigation – invoking human rights or constitutional rights – has become a powerful strategy to press governments on their commitments. However, litigation also faces significant obstacles. Structural barriers such as narrow standing rules, limited judicial expertise on climate science, and resource constraints can limit effectiveness. By identifying these “gaps” versus the “advantages” of climate litigation, we can better understand how to maximize its impact (Merner, Franta & Frumhoff, 2022; Guruparan & Moynihan, 2021; Wewerinke-Singh & Mead, 2025).

Against this background, we have identified some of the advantages and gaps in using climate change litigation through fieldwork activities in the framework of the

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Horizon Europe project ‘HRJust: States’ Practice of Human Rights Justification’, which aims to study how states defend and legitimise their actions through the narrative of human rights, also in the context of climate change litigation.

As part of the new research methodology developed within the project, i.e. the Systematic Ongoing Direct Civil Society Engagement (ODCSE) (Cristani & Fornalé, 2025b), the research teams of the World Trade Institute of the University of Bern (CH) and the Institute of International Relations Prague (CZ) conducted 43 semi-structured interviews with stakeholders between April and August 2024 (Cristani et al., 2025a; Cristani et al., 2025b; Němec et al., 2024; Lukešová et al., 2025), and distributed a research survey among 86 selected stakeholders to gain feedback and extend findings from the interviews (Lukešová & Cristani, 2025°; Lukešová & Cristani, 2025b).

The interviewees were carefully selected to represent three groups: 11 policy officers (government officials at national or EU level), 11 judicial authorities (judges or arbitrators, including those from domestic courts and European courts), and 21 associations (NGOs and civil society organisations, both national and international). The interviews were semi-structured, meaning that a set of guiding questions was prepared, but interviewers had leeway to probe further based on responses. The interviews were an embodiment of ODCSE’s direct participation: they weren’t merely data collection, but a dialogue where participants often provided immediate analytical input. Questions were aimed to compare and synthesize how each group perceives the intersection of climate action and human rights, including the rights most affected, vulnerable groups, state obligations, legal instruments, and barriers in climate litigation (Němec et al., 2024). More generally, we have been enquiring and reasoning with all interviewees about the advantages and gaps of climate change litigation.

The climate litigation research survey was then prepared to gather broader quantitative data on public and expert opinion regarding human rights justifications in climate action. The survey was developed in early 2025, building directly on the findings from the interviews. Its purpose was to validate and enrich the qualitative insights with a larger sample. The sample of about 86 participants was identified to ensure diversity: it included both domestic and EU-level policymakers (22), judges and arbitrators from various jurisdictions (14), and civil society representatives, mirroring the balance sought in the interviews (50). In particular, two questions in the research survey were devoted to addressing gaps and advantages of climate change litigation.

The following paragraphs offer an overview and discussion of the findings on perceived gaps and advantages of climate change litigation as emerged from the relevant interviews and research survey.

2. Advantages of Climate Litigation: Perspectives from the Ground

Our analysis draws on a mixed-stakeholder interview dataset that codes relevant quotations from interviewed judges, arbitrators, civil society representatives and associations, as well as policy officers (Cristani et al., 2025a; Cristani et al., 2025b). We systematically identify themes in what each group sees as gaps in climate litigation (barriers or challenges) and as advantages of climate litigation (strategic strengths or benefits). We have quantified how often each theme has been mentioned by each stakeholder category, and we have illustrated each theme with representative quotes.

Table 1 outlines the main advantages or positive impacts of climate litigation as discussed by interviewees, with the percentage of each stakeholder group noting each advantage, plus illustrative quotes or summaries. In particular, five advantage themes emerged: *Pressure on Policymakers*, *Public Awareness & Engagement*, *Civil Society Empowerment*, *Advancing Legal Development*, and *Framing Climate as a Human Rights Issue*.

Table 1. Main advantages of climate change litigation as discussed by interviewees

Advantage Theme	Judicial Authorities	Advantage Theme	Judicial Authorities	Advantage Theme
Pressure on Policymakers	45%	57%	9%	Many interviewees observed that climate litigation forces governments to act. Courts can “basically [tell] the legislator, ‘you did not do a good enough job...please consider this again and tackle climate change’” ¹ .
Public Awareness & Engagement	36%	67%	18%	Climate lawsuits often attract media attention and frame climate change as a human rights and justice

¹ Interview with Association 6.

				issue, thereby educating the public. By putting climate cases in the courts and news, litigation can mobilize public opinion and generate broader debate. A frequently mentioned advantage is the strengthened capacity when NGOs and citizens engage in litigation. Interviewees highlighted that climate litigation is driving legal innovation. Courts are recognizing novel concepts and rights – for example, climate cases have led to courts affirming obligations to future generations. One expert pointed out that litigation successes like the German climate case created “a new fair pact between generations”¹ by requiring steeper emissions cuts to protect young and future citizens. Such rulings not only resolve individual cases but also set important precedents and legal standards. Judges noted that through climate lawsuits, judiciary can clarify states’ duties under existing law (even if they must act cautiously), thus progressively developing climate jurisprudence. A cross-cutting advantage discussed was the framing of climate change in terms of human rights, which
Civil Society Empowerment	64%	57%	9%	
Advancing Legal Development	27%	43%	9%	
Framing Climate as a Human Rights Issue	100%	71%	45%	

¹ Interview with Association 4.

adds moral and legal
weight to climate action.

In interviews, civil society representatives were most vocal about the positive effects of litigation – emphasizing how it galvanizes public opinion and empowers civil society to demand action. Policy officers often acknowledged the strategic value of litigation in pushing forward the policy agenda when politics stalls, and they noted the international reverberations of landmark court decisions, though most of them have not commented on climate litigation in either way. Judges and arbitrators, while cautious, recognized that climate litigation has prompted important legal conversations and can “fill gaps” by interpreting rights to address climate harms. Together, these perspectives paint a picture of climate litigation as both a legal tool and a catalyst for broader change.

Importantly, *Framing Climate as a Human Rights Issue* emerged as the most cited advantage overall. Respondents noted that linking climate to established human rights frames amplifies the legitimacy and urgency of litigation. For example, one interviewee stated that “human rights are today evaluated as the strongest law instrument”,¹ while another one noted how the Paris Agreement commitments incorporate human rights, “uphold[ing] human rights principles in the context of climate action”.² This finding aligns with the literature emphasizing a “human-rights turn” in climate cases (Guruparan & Moynihan, 2021).

Public Awareness & Engagement and *Civil Society Empowerment* were also frequently mentioned, especially by civil society representatives, and also by judges and arbitrators. One interview asserted, “[w]e must talk about health, we must talk about food, and we must talk about gender”.³ This suggests that litigation gives civil society a megaphone to highlight climate impacts on everyday concerns. Judicial authorities also saw litigation as facilitating citizen participation. They noted, for examples, specific instances of non-governmental organizations (NGOs) challenging infrastructure projects (“[e]nvironmental organizations and citizens have challenged illegal deforestation and construction projects affecting forests and biodiversity”).⁴ These views are consistent with the idea that litigation mobilizes public attention and stakeholder involvement. This has been confirmed also from the survey – as Table 2 below illustrates.

¹ Interview with Association 3.

² Interview with Judicial Authority 1.

³ Interview with Association 1.

⁴ Interview with Judicial Authority 1.

Table 2. Agreement to the question in the climate change litigation survey about the advantages of the involvement of civil society in climate litigation proceedings

Question from the survey: Do you agree with this statement “civil society engagement in climate litigation brings multiple advantages, providing legal expertise, funding, while also enhancing case credibility and media attention”?				
Judicial (Agreement)	Authorities	Associations (Agreement)	Policy (Agreement)	Officers
100%		83%	100%	

In the comment section to the relevant survey question, some of the participants emphasized further the important role of civil society in climate change litigation: for example, it was noted that such involvement “brings multiple advantages because [civil society is] more in contact with the field and the vulnerable peoples”,¹ while at the same time it was highlighted that “[f]urther reforms are needed for broader and fairer participation”.²

Pressure on Policymakers and *Advancing Legal Development* were somewhat less cited by interviewees, but still important. This theme echoes the view that strategic litigation exerts bottom-up pressure on governments – exactly what Guruparan & Moynihan (2021) describe as litigation “helping to bridge the gap between pledges and governmental action”. In other words, many see cases as a way to force or pressure policy change.

In summary, stakeholders saw multiple positive aspects of climate litigation. Associations particularly emphasised the educational and mobilizing functions (awareness, empowerment) as well as the strategic legitimacy of a rights framing. Judicial interviewees similarly noted engagement and stressed the *Framing* advantage. Policy officers, while skeptical overall, gave a high weight to the human rights framing. Nevertheless, respondents across groups see litigation as a catalyst: it leverages civil society networks (legal support, NGOs’ clout), it attracts media/public engagement, and it brings authoritative court judgments into the climate debate.

¹ Comment from Civil Society 10.

² Comment from Judicial Authority 1.

3. Gaps in Climate Change Litigation: Bringing the Stakeholders' Point of View into the Discussion

Table 3 summarizes thematic gaps in climate change litigation as reported by interviewees, with the percentage of interviewees in each stakeholder group mentioning each gap. It also provides illustrative quotes or insights from the interviews.

Table 3. Main gaps in climate change litigation as discussed by interviewees

Gap Theme	Judicial Authorities (% mentioning)	Associations (% mentioning)	Policy Officers (% mentioning)	Qualitative (Interview Summary)	Insight Quote or
Limited Access to Justice	27%	14%	0%	Interviewees highlighted that strict standing rules and procedural barriers often prevent cases from being heard.	
Lack of Resources	18%	29%	0%	Many noted that litigants (especially NGOs and individuals) face funding and expertise shortages, making it hard to sustain climate lawsuits.	
Limited Judicial Knowledge/Training	36%	19%	0%	Several interviewees observed that judges are not always equipped with deep climate science or human rights expertise, which can hinder effective adjudication. Judges themselves acknowledged the need for more training in this area ("there are countries where the judges [...] [do not] get any training about climate change").	
Gaps in Legal Frameworks	73%	48%	18%	Interviewees noted that in some jurisdictions climate-specific legislation or rights are absent or vague, forcing plaintiffs to rely on broad constitutional provisions or creative legal arguments. This legislative	

Judicial Limitations	82%	53%	9%	gap makes climate litigation more challenging. Some pointed out that courts are often conservative and overburdened, wary of overstepping (“courts are maybe not always best place to answer these questions. [...] In a way, courts are overwhelmed by this”).
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Association representatives that have raised resource constraints and access to justice issues, reflected the practical difficulties NGOs and communities face in bringing cases. Judicial authorities, meanwhile, often highlighted institutional limitations – such as the need for judicial training and clear legal mandates – and expressed concern about courts having to fill legislative gaps. Policy officers tended not to enter into the details of climate change litigation, though some of them have noted political hurdles (e.g. low political will) as underlying issues.

When it comes to the issues of access to justice and lack of resources, more insights were brought from the research survey. Indeed, most of the participants have agreed that these are important barriers to climate change litigation - as Table 4 below illustrates.

Table 4. Agreement to the question in the climate change litigation survey about the gaps of climate litigation proceedings

Question from the survey: Do you agree with this statement “among the current barriers and obstacles that we see in the climate litigation context, lack of access to justice and lack of resources are important ones”?				
Judicial Authorities	Associations	Policy Officers		
(Agreement)	(Agreement)	(Agreement)		
50%	86%	40%		

In the comment section to the relevant survey question, some of the participants added also other procedural and institutional barriers (thus partly mirroring some of the answers from the interviews). For example, one participant highlighted that also “institutional obstacles, such as the lack of clear mechanisms for holding states and corporations accountable, legal uncertainty about the justiciability of climate obligations, and finally a high dependence on the interpretation of the courts”

constitute barriers in climate change litigation proceedings.¹ Others also included “the limited jurisdiction of certain international tribunals”,² or the “inexistence of legal basis for climate action in national climate laws or any other binding legal act”,³ or again “Lack of political will to implement court decisions”.⁴

4. Discussion of Gaps and Opportunities

Our results reveal how judicial authorities, associations, and policy officers differently perceive the strengths and weaknesses of climate litigation. Below we interpret these findings, drawing on theory and literature where possible, and highlighting implications for law and policy.

Starting with the strengths of climate change litigation, most interviewees agreed that litigation empowers activists and raises awareness. Building on this, NGOs and communities can coordinate transnationally to share strategies and evidence. This echoes what in literature has been labelled as “translational work” – not only for judges, but also for scientists and activists to communicate effectively (Merner, Franta & Frumhoff, 2022). Our own findings reinforce this: collaboration between social scientists, legal experts, and affected communities can address evidence gaps (e.g. developing tools to document climate impacts rigorously) and ensure cases reflect local needs.

Several interviewees were also optimistic about developments happening at the international level, especially when it comes to the relevant advisory opinion proceedings before regional and international courts. The most recent Cambridge Handbook on Climate Litigation also describes how visionary legal reasoning in pending international cases could generate new norms (Wewerinke-Singh & Mead, 2025).

On the other hand, when it comes to the shortcomings of climate change litigation, our data stresses the importance of educating judges and lawyers on climate issues. This again goes in the direction of academic calls to “increase awareness and sensitivity among judges for climate change issues and to increase their legal climate change knowledge, capability, and expertise” (Wewerinke-Singh & Mead, 2025). Practical steps include creating judicial training programs on climate science and

¹ Comment from Judicial Authority 1. In the same vein, also Comment from Civil Society 6.

² Comment from Judicial Authority 2.

³ Comment from Policy Officer 1.

⁴ Comment from Policy Officer 2.

law, and funding specialized public interest law centers. Legal clinics and law schools can play a role by offering clinics on climate rights. Also the 2022 CSSN report's recommendations – handbooks for lawyers, graphics for courtrooms, clearinghouses of case law – point to concrete tools that can be developed (Merner, Franta & Frumhoff, 2022). Over time, a more climate-informed bench and bar will be better equipped to handle complex cases, reducing the “judicial limitations” gap.

Also, most interviewees highlighted how, across jurisdictions, existing statutes or constitutions may lack explicit climate mandates. Stakeholders noted that litigants often rely on broad provisions (environmental clauses, general duties of care) because specific climate laws are absent or vague. This gap forces courts to “fill in” missing norms, which can be controversial. Accordingly, one opportunity is for legislatures to clarify climate duties, reducing legal uncertainty. Alternatively, courts can continue to invoke general rights frameworks to impose climate obligations – a trend our data suggest is viewed rather positively.

Overall, our empirical findings point toward a multi-pronged strategy. On the one hand, the gaps – in procedure, resources, law, and enforcement – call for targeted reforms: liberalizing standing, investing in legal and scientific expertise, clarifying climate obligations, and strengthening enforcement mechanisms. On the other hand, the relevant opportunities – rights arguments, civil mobilization, interdisciplinary research, and institutional linkages – suggest ways to expand climate change litigation's impact. Each stakeholder group's perspective offers a piece of the puzzle: judges signal the importance of judicial readiness, civil society highlights the power of public engagement, and policy experts remind us of the broader governance context. By combining these insights, we see that climate litigation can be made more effective if integrated with broader climate governance strategies. In particular, interlinking legal innovation with policy action can make court decisions more consequential, closing the loop between litigation outcomes and climate policy implementation.

5. Preliminary Conclusions

Our study underscores that climate litigation – especially when grounded in human rights and intergenerational justice – is an increasingly significant tool in the climate policy arena. Stakeholders perceive it as a catalyst for change: it mobilizes public opinion and civil society, pushes governments to enhance climate commitments, and progressively evolves legal norms. However, they also recognize its limitations:

restrictive legal systems, limited capacity, and political inertia all constrain how far litigation alone can go.

The rights-based dimension is particularly salient. By framing environmental harm as a violation of basic rights, climate lawsuits carry moral weight and legal force. This aligns with a broader trend documented in the literature: courts around the world are beginning to treat inadequate climate action as incompatible with rights to life, health, or a clean environment. Our findings suggest that when litigation successfully triggers legal obligations – for example, by prompting governments to beef up emissions targets – it contributes to the overall ambition of climate governance. Indeed, as noted by the IPCC, “the outcomes of climate litigation can affect the stringency and ambitiousness of climate governance” (Dubash & Mitchell, 2022). At the same time, climate litigation should be seen as complementary to other efforts – a democratic accountability mechanism that works alongside negotiations, regulations, and public initiatives.

Our empirical research confirms the promise of climate litigation and, in particular, rights-based approaches in the fight against climate change. This is consistent with broader observations: an emerging “judicial climate movement” is taking shape worldwide, with courts increasingly engaging in climate-related issues. Climate lawsuits raise the profile of the climate crisis, embody intergenerational equity, and in some cases establish new legal precedents. Realizing their full potential will require a concerted effort – from law reform to funding to cross-disciplinary collaboration – to bridge the identified gaps. If these challenges can be addressed, rights-based climate litigation could play an even more constructive role in shaping global climate governance. For now, our stakeholders’ voices suggest cautious optimism: climate litigation has become an integral part of the climate policy landscape, one that can drive greater accountability and ambition in climate action.

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