

# Brattleboro Reformer

## **Climate change threatens Americans' rights to life, liberty and property**

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No matter your politics, you're seeing the harmful impacts of climate change and continued reliance on fossil fuels all around you. Just this summer, we've seen the surface of the ocean on fire in the Gulf of Mexico, record-setting deadly heat waves in the Pacific Northwest, forests burning across the West, and whole towns in Canada turned to ashes.

All set within this context: July was the Earth's hottest month on record and last month's U.N. climate science report was called "code red" for humanity by the U.N. Secretary General.

The air we breathe, the water we use, and the land we inhabit are becoming less safe for humans. Climate chaos is already leading to the kinds of population displacement we used to hear might happen decades from now.

At this point, conservatives and libertarians should be joining the rest of the political spectrum in pushing for real solutions. If your political bottom line is the protection of property rights, consider how far those rights are being violated by the extreme weather and global changes we're already seeing.

The legal community is already beginning to recognize this. This year, the Australian Federal Court ruled that the Australian government has an obligation not to cause physical harm to Australia's youth in the form of personal injury from climate change. Just two years ago, the Dutch Supreme Court held that the Dutch government has a human rights obligation to its citizens to urgently and significantly reduce emissions. That means that the legal door is now open for these governments to be on the financial hook for climate-related damages.

While there are some important differences, America's constitutional framework is similar to the principles and legal foundations of those countries, and it's no stretch to believe that our laws afford us the same protections – or at least should afford us the same protections – outlined in these recent legal rulings. Even the libertarian Cato Institute has made this argument, writing that property rights afforded Americans include “a right to exclude others, a right against trespass, or a right of quiet enjoyment . . . and the right of active use, at least to the point where such use violates the rights of others to quiet enjoyment.”

There is no “quiet enjoyment” to be had when your forests, fields and farms are on fire, your air is unbreathable, and your water is either irretrievable or unusable. There is no active use of resources when the country is suffering from an unsustainable mix of extreme heatwaves, droughts, flooding, and pollution. Under these circumstances, constitutionally established rights to liberty, freedom, and autonomy — and even the constitutional right to privacy, which is often referred to as the “right to be let alone” – are becoming difficult to implement or, in some cases, impossible to realize.

This is a big part of the reason why almost two dozen youth filed a climate lawsuit, *Juliana v. United States*, against the U.S. government seven years ago. Similar to the Australian and Dutch cases, the *Juliana* court ruled that the federal government “violated the youngest generation's constitutional rights to life, liberty, and property, as well as failed to protect essential public trust resources.” While the *Juliana* suit survived the Trump administration's attempts at dismissal, 17

U.S. states inserted themselves into the case in June to “oppose any proposed settlement and stop the youths’ case from proceeding to trial.”

The attorneys general fighting the youth lawsuit aren’t just evading our country’s legal responsibility to our young people. They’re ignoring the Constitution and centuries of legal jurisprudence on individual rights. If young Americans do not have a right to a livable world – a world in which all the other rights guaranteed in the Constitution have meaning – what are their other rights actually worth?

The Juliana court is not alone in asserting Americans’ rights to life, liberty, and property. Just before this year’s Independence Day celebrations, dozens of public interest groups and public figures united to support a lawsuit first filed three years ago by the Animal Legal Defense Fund (ALDF) and others against the federal government. That case is now on appeal. Advocating in the spirit of America’s founding, the petitioners in ALDF v. US seek for the federal courts to recognize the constitutional right to be let alone in nature. They ask nothing more than that Americans be left free of harm when using and enjoying public lands.

As the plaintiffs in these cases recognize, climate change threatens each American’s life and freedom. Those are basic things we should all fight to protect, regardless of how we vote or what we believe on other questions.

As long as our federal laws promote and enable a fossil fuel-based economy, these threats will get worse. These cases seek, on all our behalf, to compel the adoption of a different framework that protects our common and personal interests. While it’s too early to predict specifics, if either case is successful, it will add legal teeth to the effort to hold the U.S. government culpable for past failures to act. It’s time for libertarians, conservatives, and climate leaders everywhere to unite behind these lawsuits. Our basic freedoms are at stake.

