

The Rule of Law, Civilization's Greatest Tool to Achieve Justice, Is Under Attack in Hawaii

Retired Justice Michael D. Wilson
Supreme Court of the State of Hawai'i
Hawaii State Senate November 3, 2025



Points of Discussion

1. The State of Hawaii is the bleeding front line of climate change, and the foremost champion among all states of climate rights for the future generations of our country
2. The Giant fossil fuel corporations pose the greatest threat to the environmental rule of law in Hawaii
3. Donald Trump is the second greatest threat to Hawaii's future generations and Earth's life-sustaining ecosystems

Hawaiian Islands From Space









UNITED NATIONS

- * Department of Economic and Social Affairs report on Sustainable Development
- * ***At the Brink of Climate Calamity***

Sui Generis Emergency

Climate Change:

UNLIKE ANY OTHER SOCIAL
ISSUE: Impending Solution
Horizon

1.5 degrees= existential threat

*3.0 degrees = our children's
future*

"We are on a highway
to climate hell with
our foot still on the
accelerator."





State of Hawaii
Climate Change Portal

**70% OF BEACHES AND 4,000
STRUCTURES IN THE STATE
ARE THREATENED.**

Economic Impacts: Loss of Waikiki Beach Due to Sea Level Rise



- * Loss of Waikiki Beach could lead to annual loss of \$2 billion in visitor expenditures by mid century

Unprecedented Extreme Weather Events

- * Dr. Charles Fletcher:
- * Unprecedented extreme weather events pose a greater threat to our State than sea level rise.
- * Dr. Charles Fletcher: We are now on a war footing as we face the existential climate crisis. Everything possible must be done to reduce green house gases sufficiently to prevent global warming above 1.5 degrees.



**NO CLIMATE
PROTECTION PLAN**

The Giants – New Governance Group

Humanity's Greatest Threat

- * Securing a total profit of \$59.2 billion, U.S. oil giant ExxonMobil recorded the highest total. In 2021, the company's profits were \$23 billion, or less than half of 2022's profits. ExxonMobil was joined by Chevron, whose profits rose by over 134 percent to \$36.5 billion, and Shell, whose profit of \$39.9 billion was the highest in the company's 115-year history. Four oil companies (Chevron, ConocoPhillips, Exxon, and Shell) had total sales of approximately \$1 trillion in 2022—"A sum greater than the total economic output of Colombia, South Africa or Switzerland."
- * Amid its year of record profit, the oil and gas industry spent \$124.4 million on federal lobbying. And this investment has been extraordinarily successful. According to the International Energy Agency, fossil fuel subsidies hit a global high of \$1 trillion in 2022—the same year Big Oil pulled in a record \$4 trillion of income. In the United States, by some estimates, taxpayers pay about \$20 billion every year to the fossil fuel industry.

*

Fossil Fuel Governance Powers

- * Young people today and the future generations they represent are treading the path worn before them by slaves, children exploited in factories, oppressed women, and so many others who have sought to apply the rule of law to systematic widespread injustice. It is a path fraught with opposition from formidable private economic entities—the fossil fuel energy industry, its lobbyists, and its array of extraordinarily well-compensated lawyers.

International Energy Agency (IEA) Executive Director Fatih Birol says the energy industry as a whole made \$4 trillion in profits in 2022, more than double its recent annual average of \$1.5 trillion. Profits, hundreds of millions of dollars in government subsidies, and a cadre of helpful scientists, the energy industry and its partners in the financial management industry constitute a mighty opposition to the community of young people and municipalities in the United States that seek application of the rule of law to protect themselves from the knowing destruction of the environment upon which their future depends.

- * **(Timely Judicial Recognition and Protection of Climate Rights, Wilson, J, retired)**

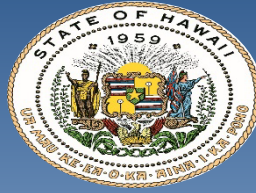
Approximately 20 billion paid to fossil fuel companies annually in direct subsidies by US Government

- * Primarily through tax breaks for drilling, favorable financing, and royalty relief on public lands

Climate Emergency Law

The Giants vs Future Generations





Hawaii State Legislature Declares Climate Emergency: Untold Suffering

- * Atmospheric CO₂ concentrations are at the highest levels in four hundred twenty thousand years.
- * greenhouse gas emissions have “pushed Earth’s ecosystems to their breaking point”. “Planet Earth is facing a climate emergency” which will take “an immense increase of scale in endeavors ... to avoid untold suffering[.]” (January 26, 2021)



One of the world's most acclaimed environmental jurists, Brazil National High Court Chief *Justice Antonio Benjamin*, has described climate change as the **single most important legal issue facing judges globally.**

Climate Emergency is Causing Lawsuits Around the World: **Action**

- * Around the world, a growing number of entities and environmental activists are taking action . As of December 2022, **there have been 2,180 climate-related legal cases filed in 65 jurisdictions**, including international and regional courts, tribunals, quasijudicial bodies, or other adjudicatory bodies. Lawsuits related to climate change have more than doubled over the last 5 years as litigants see courts as a way to enhance (or delay) climate action. **Children and youth, women's groups**, local communities, and Indigenous Peoples, among others, are taking a prominent role in bringing these cases and driving climate change governance reform around the world. This **“climate justice movement”** seeks to extend the principles of human rights and environmental justice by arguing that future generations have a birthright to a safe climate capable of sustaining genuine human development on a healthy and resilient planet .

“Federal courts too often have been cautious and overly deferential in the arena of environmental law, and the world has suffered for it.”

Juliana v United States, 217 F. Supp. 3d at 1262.

Our Children's Trust Climate Litigation Seeks Remedies

- * “Exercising my reasoned judgment I have no doubt that **the right to a climate system capable of sustaining human life is fundamental to a free and ordered society** . . . a stable climate system is quite literally the foundation of society, without which there would be neither civilization nor progress.”
- * Juliana v. United States, 217 F. Supp. 3d 1224, 1250 (D. Or. 2016).

United States Court of Appeals: Future Generations have No Right to a Stable Climate Capable of Supporting Human Life

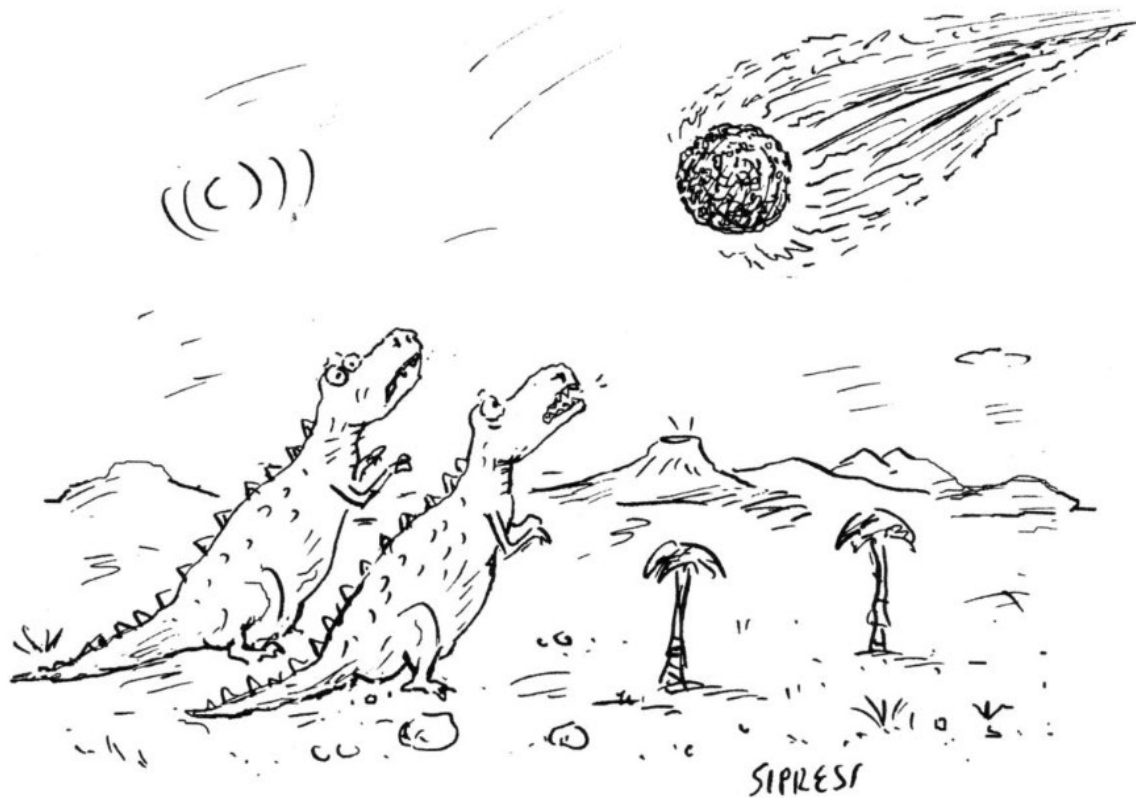
- * Dissent: In these proceedings, the government accepts as fact that the United States has reached a tipping point crying out for a concerted response—yet presses ahead toward calamity. **It is as if an asteroid were barreling toward Earth and the government decided to shut down our only defenses. Seeking to quash this suit, the government bluntly insists that it has the absolute and unreviewable power to destroy the Nation.**
- * My colleagues throw up their hands, concluding that this case presents nothing fit for the Judiciary.
- * Juliana v. United States (Josephine Staton)

Democracy at Risk: West Virginia v. EPA (Justice Kagan, with whom Justice Breyer and Justice Sotomayor join, dissenting)



- * “The subject matter of the regulation here makes the Court’s intervention all the more troubling. Whatever else this Court may know about, it does not have a clue about how to address climate change. And let’s say the obvious: The stakes here are high. Yet the Court today prevents congressionally authorized agency action to curb power plants’ carbon dioxide emissions. The Court appoints itself—instead of Congress or the expert agency—the decisionmaker on climate policy. I cannot think of many things more **frightening**. Respectfully, I dissent.”

Federal Courts of the United States pose the greatest threat to humanity of any courts



"Maybe it isn't going to be so bad."

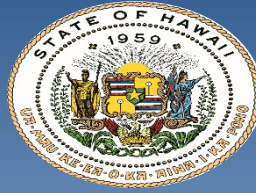
Atrocity Law

- * The use of pretend legal reasoning and/or pretend facts to perpetuate violation of the fundamental rights of a specific class (e.g., young people).**
- * Korematsu
- * West Virginia v Epa
- * Juliana v United States



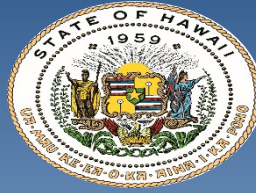
The Governor, the Legislature and the Courts Unite

The State of Hawaii is the bleeding front line of climate change, and the foremost champion among all states of climate rights for the future generations of our country



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Hawaii Supreme Court Recognizes Constitutional Right to a Life-Sustaining Climate System

- * Article XI, section 9's "clean and healthful environment" right as defined by HRS chapter 269 subsumes **a right to a life-sustaining climate system**. The need to mitigate the catastrophic effects of anthropogenic climate change underlies HRS chapter 269; it in turn shapes and defines the right to a clean and healthful environment.
- * In the MATTER OF the Application of MAUI ELECTRIC COMPANY, LIMITED For Approval of Power Purchase Agreement for Renewable Dispatchable Generation with Paeahu Solar LLC., March 3, 2022

Hawaii State Supreme Court Rejects Federal Court analysis. Recognizes Constitutional Right to a Life Sustaining Climate

- * Unlike the Juliana majority, the Hawai'i State Supreme Court does not choose to "throw up [our] hands." *Juliana*, 947 F.3d at 1174 (Stanton, J., dissenting); see, also, *Aji P v. State of Washington*, 497 P.3d 350, 353 (Wash. 2021) (Gonzalez, J., dissenting) ("The court should not avoid its constitutional obligations that protect not only the rights of these youths but all future generations who will suffer from the consequences of climate change.") In contrast to the federal judiciary, the Hawai'i Supreme Court has recognized the constitutional right to a life- sustaining climate. In the Matter of the Application of HAWAI'I ELECTRIC LIGHT COMPANY, INC., Hawaii State Supreme Court (SCOT-22-0000418 2023) (Wilson, J concurring)
- * **Timely Judicial Recognition and Protection of Climate Rights. American Bar Association Judges Journal**
<https://docs.google.com/document/d/1zCnX7dY01Ibf13Ms0gbfLc9a2PQu1EqB/edit>
- * "Can State Supreme Courts Preserve or Expand Rights?", New Yorker, June 3, 2024

Supreme Court of India Wields the Rule
of Law to Define the Constitutional Right
to Stable Climate.

Ranjitsinh v Union of India (3/21/24)
Climate Justice



Indigenous teens reach historic settlement
agreement with Governor Green.
International model for climate justice in
Hawaii

Navahine v Hawaii Department of
Transportation



Trump Comes to Hawaii to Help the Giants

*Trump Comes to Hawaii to Stop the Most Important Fraud Case in the World. The Governor Opposes Trump

A Supernova of Judicial Power Released

CITY AND COUNTY OF HONOLULU and HONOLULU BOARD OF WATER SUPPLY, Plaintiffs-Appellees,

vs.

SUNOCO LP; ALOHA PETROLEUM, LTD.; ALOHA PETROLEUM LLC; **EXXON MOBIL CORPORATION**; EXXONMOBIL OIL CORPORATION; **ROYAL DUTCH SHELL PLC**; **SHELL OIL COMPANY**; SHELL OIL PRODUCTS COMPANY LLC; **CHEVRON CORPORATION**; CHEVRON U.S.A. INC.; BHP HAWAII INC.; **BP PLC**



Vic Sher, esq



New York Times May 1, 2025

- * Hawaii Announced a Climate Lawsuit. So the
- * Government Sued Hawaii First.
- * In an unusual move, the T rump administration preemptively sued Hawaii and
- * Michigan to try to stop them from suing oil companies over global warming.

- 
- * Donald Trump is the second greatest threat to Hawaii's future generations and Earth's life-sustaining ecosystems

The Solution

A Climate Protection Plan

Aloha

