

Is environmentalism facing a paradigm shift? Since the 1970s, mainstream environmentalists, lawyers, and scholars have sought incremental progress based on established law and political realities. But frustration with that approach is palpable. The face of climate advocacy is now seventeen-year-old activist Greta Thunberg rather than Establishment politician Al Gore. And there is growing frustration with conventional approaches.

The Juliana case is one sign of this frustration. The plaintiffs, a group of young people, claimed that the federal government had violated their constitutional right to a livable climate, putting them and their futures at risk. This claim was far outside the parameters of existing constitutional law. The Supreme Court has held that the Constitution does not protect the right to food, the right to an education, the right to medical care, or the right to police protection. Given that background, the argument did remarkably well in court. The trial judge accepted the argument. On appeal, the majority expressed sympathy with the argument, though it rejected the case on standing grounds, while the dissenter accepted the plaintiffs' case entirely. The openness of these judges to leaping far past existing precedent is a sign of immense frustration with the normal channels of legal change in the face of the climate crisis.

The response of the legal establishment to the plaintiffs' loss is also telling. In a thoughtful [post](#) last week, Ann Carlson described how her view of the case changed from initial skepticism to a sense that "if ever a case called out for judicial intervention, this appears to be it." And as she explained, she was not alone in her reaction:

"Robinson Meyer, the excellent Atlantic environmental writer, admits that he ignored the case until he read the powerful Juliana dissent. It changed his mind, according to the headline accompanying his article, or at least moved him to think differently about the case. Meyer's reaction was hardly unique. Mike Gerrard, the director of the Sabin Center on Climate Change at Columbia Law School, lamented in the New York Times that 'for now, all three branches of the federal government are sitting on their hands as the planet burns.' Other lawyers expressed fury that the court had dismissed the case without a trial."

Among the broader public, there also seems to be a growing sense that something dramatic and new is needed. The Green New Deal is as far outside of normal political expectations as the Juliana case is outside of normal legal expectations. After the next election, Democrats would be doing well to gain a slim Senate majority, and most of the new House members

elected in 2018 are moderates. It's hard to see how a trillion-dollar-plus climate plan could emerge from that Congress. And yet the Green New Deal has reset the benchmark, pushing even moderate Democrats like Biden to propose plans that go far beyond those of the Obama Administration.

Some of this, maybe most of it, has to be due to Trump. If Clinton had won, the U.S. would have worked to strengthen the Paris Agreement and make incremental climate progress at home. There would have been a sense of building momentum. Now, instead, we are fighting desperately to save what incremental progress was made under Obama. As the scientific evidence mounts that we need urgent climate action, our President is doing everything he possibly can to expand the use of fossil fuels.

It's not just Trump, however. There's also a growing sense that "politics as usual" is not up to dealing with a problem this big and in need of immediate action. The appeal of Bernie Sanders and Elizabeth Warren is based on a sense that our democratic system is faltering, prey to the influence of billionaires and corporate giants like oil companies, and constitutionally biased in favor of a rural minority. Even the Establishment is troubled. The [NY Times](#) split its Democratic endorsement between a Progressive (Elizabeth Warren) and a moderate (Amy Klobuchar). The Times admitted that it would normally be inclined to endorse the more establishment candidate. It went on, however, to express its lack of uncertainty about the most viable approach: "But the events of the past few years have shaken the confidence of even the most committed institutionalists. We are not veering away from the values we espouse, but we are rattled by the weakness of the institutions that we trusted to undergird those values."

How this plays out will depend on whether our institutions can be made to work well enough to regain our trust. The jury is still out on that one. In the meantime, however, we also need to continue to fight for whatever incremental progress we can make in the here and now. And we need to continue to hold the line wherever possible against environmental rollbacks. Every ton of carbon emitted now will linger in the atmosphere for decades or centuries. For that reason, every ton of emission reduction is a victory for future generations.