

Standing as Barrier or Gateway: Contrasting U.S. Doctrine with Global Climate Jurisprudence

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Abstract: This article offers a comparative case law analysis of how courts address standing in climate litigation. Taking U.S. federal Article III standing as a reference point, it examines how courts in various jurisdictions confront analogous threshold questions through different doctrinal forms, including admissibility, legal interest, victim status, and constitutional review. Three questions recur across jurisdictions: whether organizations may sue in a representative capacity, whether climate harm remains legally cognizable when widely shared, and whether threshold review is conducted through a distinct procedural test or through a broader rights-based framework. The article argues that attention to these differences in judicial reasoning helps explain why similar climate claims proceed in some courts but not in others. In doing so, it shows that the procedural gateway to climate adjudication is shaped not only by formal doctrine but also by how courts characterize climate harm, the claimant, and the judicial role.

Keywords: Climate Litigation; International and Comparative Law; International Environmental Law; International Climate Change Law; Standing

A. Introduction

Standing remains one of the most significant procedural hurdles in climate litigation. Most jurisdictions require courts to consider whether the parties attempting to bring a legal action have “standing” to do so.¹ The term “standing” refers to the set of requirements that a plaintiff must meet in order to demonstrate their right to bring a claim before the court. While standing exists across legal systems, its interpretation and application vary significantly. Moreover, the landscape of climate litigation has shifted dramatically in recent years, with courts increasingly confronting novel questions about the justiciability of systemic environmental harm. For the purposes of this article, “climate litigation” refers

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1 United Nations Environment Program, Global Climate Litigation Report 2017 Status Review, pp. 28-29, noting that while the question of standing has been a central issue in climate litigation in the U.S., it remains less of a barrier in some courts outside of the U.S., such as in *Save Lamu et al. v. National Environmental Management Authority and Amu Power Co. Ltd.*, *Leghari v. Pakistan* and *Gbemre v. Shell PDC Nigeria Limited*.

to judicial proceedings in which climate change mitigation or adaptation is central to the claims or relief sought.

In the US, courts often apply a strict three-part test. In contrast, many other jurisdictions—such as Germany, South Korea, the Netherlands—and regional courts do not treat standing as a distinct doctrine; instead, the concept is structured differently in form and logic. This article adopts a comparative approach, examining selected cases from multiple jurisdictions. The analysis considers how different courts articulate the requirements for standing, the extent to which these requirements have evolved in response to climate change, and what these trends suggest for the future of access to climate justice.

B. Methodology and Scope

This article does not purport to provide a comprehensive survey, but rather to offer a comparative reading of a selected set of climate litigation. Even with these limitations, the exercise remains valuable: by placing a handful of illustrative cases side by side, the analysis highlights recurring tensions and divergences in the treatment of standing across legal systems and thus contributes to the broader understanding of transnational patterns in climate litigation.²

Article III standing under U.S. federal law is introduced to provide the definition of standing (*a tertium comparationis*), with subsequent sections showing how other jurisdictions approach the issue in distinct ways.³ For the comparative analysis, cases are selected based on their capacity to illuminate similar or contrasting judicial reasoning in relation to the specific issues drawn from the preceding examination of U.S. case law.⁴ The selection is problem-oriented rather than geographically representative. Instead of aiming to survey global trends, this study identifies illustrative decisions from diverse jurisdictions that engage with analogous threshold questions—such as admissibility, legal interest, victim status, or access to constitutional review.⁵

It should also be noted that the use of the term “standing” in this article is context sensitive. In the U.S. cases section, “standing” refers specifically to the federal Article III doctrine, with its three-pronged injury, causation, and redressability test. In the comparative sections that follow, the term is used more broadly, to denote the procedural gateway, however defined within a given legal system, that enables a claimant to bring a climate-related case before a court.

The selection includes both cases in which standing was decisive and cases in which it was discussed in a meaningful way, even if not dispositive. Decisions at different

2 *Ran Hirschl*, The Question of Case Selection in Comparative Constitutional Law, *The American Journal of Comparative Law* 53 (2005), p. 125.

3 *Ralf Michaels*, The Functional Method of Comparative Law, in: Mathias Reimann / Reinhard Zimmermann (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2006, p. 339.

4 *Konrad Zweigert / Hein Kötz*, *An Introduction to Comparative Law*, Oxford 1998.

5 *Jaakko Husa*, *Introduction to Comparative Law*, Oxford 2023.

judicial levels—including trial, appellate, and constitutional courts—are included, as the focus extends beyond the ultimate outcome of a claim to the reasoning processes, logical assumptions, and doctrinal framing through which courts determine whether climate-related disputes may proceed. This study therefore does not undertake a comparison of constitutional structures, statutory schemes, or procedural architectures across jurisdictions. Rather, it adopts a functional approach, examining how courts articulate and justify threshold access-to-justice determinations in climate litigation.⁶ By concentrating on judicial reasoning, the analysis highlights how structurally distinct legal systems confront comparable procedural dilemmas.

This emphasis on reasoning is particularly significant in the contemporary climate litigation landscape, where courts increasingly look beyond their borders for persuasive authority.⁷ The growing practice of engaging with foreign judgments in climate-related disputes reflects an emerging transnational dialogue on access to justice and judicial role in the face of climate crisis.⁸

C. U.S. Cases

In the United States, where approximately 74% of climate litigation was filed according to a UNEP report,⁹ standing has been a central topic in a number of landmark climate lawsuits. One of the earliest and most influential precedents is *Lujan v. Defenders of Wildlife* (1992), an environmental case that crystallized the three core elements of standing under U.S. federal law: the plaintiff must have suffered a concrete and particularized injury that is actual or imminent (injury in fact), there must be a causal link between the injury and the actions of the defendant (causation), and the court must be able to provide redress for the injury (redressability).¹⁰ This tripartite test has since framed judicial analysis in federal environmental and climate litigation.

The first element, injury in fact, requires that the plaintiff demonstrate harm that is (1) concrete and particularized (affecting the plaintiff specifically, not the public generally), and (2) actual or imminent (not conjectural or hypothetical). The second part of the test, attributing a defendant's emissions to climate change overall and linking climate change

6 *Michaels*, note 3, p. 339.

7 *Jacqueline Peel / Hari M. Osofsky*, *Climate Change Litigation's Regulatory Pathways: A Comparative Analysis*, *Law & Policy* 35 (2013), p. 150.

8 *Martin Gelter / Mathias M. Siems*, *Citations to Foreign Courts — Illegitimate and Superfluous, or Unavoidable? Evidence from Europe*, *The American Journal of Comparative Law* 62 (2014), p. 35.

9 United Nations Environment Program, *Global Climate Litigation Report 2023 Status Review*, p. 18.

10 *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

to specific climate change impacts, has become increasingly easier to satisfy thanks to advances in attribution science and the accumulation of relevant jurisprudence.¹¹

Establishing the third element depends on the specific measures the plaintiff asks the court to order. In *Juliana v. United States*, the plaintiffs requested that the U.S. government “prepare and implement an enforceable national remedial plan to phase out fossil fuel emissions and draw down excess atmospheric CO₂.”¹² The Ninth Circuit Court of Appeals concluded that the relief plaintiffs sought was outside the power of the court, remanding the case to the district court with instructions to dismiss for lack of Article III standing.¹³

I. Injury in Fact

Across the U.S. cases, one obvious trend is the growing judicial openness to acknowledge climate-related damages as sufficiently specific and concrete to satisfy the injury-in-fact criteria. The recognition of climate harm as cognizable injury has evolved significantly since the mid-2000s. In *Massachusetts v. EPA*¹⁴ (2007), Massachusetts and several other states petitioned the Environmental Protection Agency (EPA) to regulate emissions of carbon dioxide and other gases from new motor vehicles and argued that EPA had the authority to regulate carbon dioxide by the Clean Air Act. The Court ruled that rising sea levels constituted a genuine and imminent threat to the state's territory, recognizing climate impacts as valid harms. The Court also recognized a more lenient standing threshold for states acting in their quasi-sovereign capacity to protect their citizens and territory.

Whether non-state plaintiffs could demonstrate similar injuries initially remained unclear but soon became recognized. In *American Electric Power v. Connecticut*¹⁵ (2011), the Supreme Court assumed standing without deciding it and disposed of the case on statutory displacement grounds. Similarly, in *Washington Environmental Council v. Bellon*¹⁶ (2011), the court assumed that members of environmental organizations had alleged concrete and particularized injuries from climate change, but declined to articulate the contours of such injuries, instead resolving the case on other elements of standing. This pattern shifted in *Juliana v. United States*¹⁷ and *Held v. State of Montana*¹⁸ where courts engaged directly with the injury element. In both cases, youth plaintiffs were successful in proving this

11 United Nations Environment Program, Global Climate Litigation Report 2020 Status Review, p. 44, see also *Christopher W. Callahan / Justin S. Mankin*, Carbon Majors and the Scientific Case for Climate Liability, *Nature* 640 (2025), pp. 893–901.

12 *Juliana v. United States*, 217 F. Supp. 3d 1224 (D. Or. 2016).

13 *Juliana v. United States*, 947 F.3d 1159, 1166 (9th Cir. 2020).

14 549 US 497 (2007).

15 *American Elec. Power Co. v. Connecticut*, 564 U.S. 410 (2011).

16 *Wash. Env'tl. Council v. Bellon*, 732 F.3d 1131 (9th Cir. 2013).

17 *Juliana v. United States*, 217 F. Supp. 3d 1224 (D. Or. 2016).

18 *Held v. Montana*, No. CDV-2020-307 (Mont. 1st Jud. Dist. Ct. Aug. 14, 2023).

requirement by giving a detailed account of how climate change has affected their personal lives.

A critical component of the injury-in-fact element requires U.S. courts to scrutinize whether the alleged injury is particularized to the plaintiff rather than a generalized grievance shared by the public. In climate litigation, courts exhibit divergent approaches to this particularization requirement, resulting in a fragmented doctrine that varies by venue, plaintiff identity, and how harms are alleged.

In several cases, federal courts have scrutinized whether alleged climate harms are sufficiently particularized. In *Native Village of Kivalina v. ExxonMobil Corp.*, the district court dismissed for lack of standing (citing causation difficulties), and while the Ninth Circuit affirmed on displacement grounds without reaching standing, Judge Pro's concurrence questioned whether the village's coastal erosion constituted sufficiently particularized harm given that countless communities face similar threats. In *Genesis B. v. U.S. Environmental Protection Agency*, the federal district court dismissed the youth plaintiffs' amended complaint for lack of standing. As part of its standing analysis, the court concluded that the youth plaintiffs' alleged climate harms were not sufficiently particularized, characterizing them as generalized grievances shared by the broader public. *Juliana v. United States* represents a notable instance where a federal court acknowledged particularized harm. Here, the Ninth Circuit Court of Appeals found that the plaintiffs met the injury and causation requirements for standing because at least some plaintiffs had alleged concrete and particularized injuries caused by fossil fuel carbon emissions that were increased by federal subsidies and leases.¹⁹ For instance, Plaintiff Kelsey Cascadia Rose Juliana stated that Defendants' actions have caused damage to and continue to threaten the resources on which she relies for her survival and wellbeing, including the freshwaters of Oregon for drinking, hygiene, and recreation.²⁰

State courts—particularly those with constitutional environmental rights provisions—apply more flexible particularization standards and grant standing more readily. *Montana's Held v. State* (2024) exemplified this divergence: youth plaintiffs prevailed by showing discrete personal injuries under Montana's constitutional right to a “clean and healthful environment”. Rikki testified about currently working outdoors on her family's ranch under dangerous heat and smoke; and Kian testified that his soccer practices were repeatedly canceled during recent summers due to wildfire smoke.²¹ Similarly, in *Navahine F. v. Hawaii Department of Transportation* (2024), youth plaintiffs described individualized climate harms—Lucina's disappearing beaches and reefs and Navahine's family farming threatened by drought and flooding—culminating in a historic settlement recognizing their constitutional right to a life-sustaining climate and requiring Hawai'i to achieve zero-emissions transportation by 2045.

19 *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020).

20 *Juliana v. United States*, 339 F. Supp. 3d 1062 (D. Or. 2018).

21 *Held v. Montana*, No. CDV-2020-307 (1st Dist. Ct. Mont., Aug. 14, 2023).

II. Causation

The causation prong has proven more contentious. Given the inherent global and cumulative nature of climate change, courts have differed in their approaches. Noting the challenge of connecting localized emissions to global climate outcomes, the Ninth Circuit ruled in *Washington Environmental Council v. Bellon*²² that the plaintiffs were unable to demonstrate that greenhouse gas emissions from a few oil refineries in Washington State were linked to their claimed climate injuries. In *Native Village of Kivalina*, the district court dismissed the case in 2009 on two grounds: the political question doctrine and lack of Article III standing, highlighting the difficulties in proving a clear causal link between the plaintiffs' damages and any particular defendant's emissions.²³ When the case reached the Ninth Circuit in 2012, the appellate court affirmed the dismissal but relied on displacement by federal law.²⁴ This causation barrier persists in recent litigation. In *Center for Biological Diversity v. Bureau of Land Management*²⁵(2025), the Ninth Circuit illustrates the growing judicial tendency to separate threshold standing inquiries from substantive causation analysis: while the court accepted a relatively relaxed causal showing for Article III standing, it later applied a far more demanding causation standard at the merits stage under sector-specific environmental law.

III. Redressability

Redressability continues to serve as a key barrier in climate litigation, often turning on the nature of the defendant and how directly the requested remedy addresses the harm. Courts have generally been more receptive to claims where the challenge targets a specific action and the remedy is limited and feasible. For instance, in *Juliana*, the Ninth Circuit agreed that the plaintiffs had suffered harm and established causation, but rejected the case on redressability grounds, finding that the sweeping request for a court-ordered national climate plan was outside the constitutional authority of the federal courts.²⁶ A similar outcome occurred in *Bellon*, where the court held that regulating emissions from a handful of refineries would not significantly reduce global greenhouse gases or address the plaintiffs' injuries.²⁷ This barrier persisted in later youth-led climate litigation. In *Lighthiser v. Trump* (2025), Judge Christensen acknowledged that the youth plaintiffs presented overwhelming evidence that climate change was affecting them and would worsen due to the challenged

22 *Wash. Envtl. Council v. Bellon*, 732 F.3d 1131 (9th Cir. 2013).

23 *Native Vill. of Kivalina v. ExxonMobil Corp.*, 663 F. Supp. 2d 863, 876–77, 880–82 (N.D. Cal. 2009).

24 *Native Vill. of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849 (9th Cir. 2012).

25 *Ctr. for Biological Diversity v. Bureau of Land Mgmt.*, 141 F.4th 976, 1001, 1009–11 (9th Cir. 2025).

26 *Juliana v. United States*, 947 F.3d 1159, 1168–69, 1170–71 (9th Cir. 2020).

27 *Wash. Envtl. Council v. Bellon*, 732 F.3d 1131, 1143–44 (9th Cir. 2013).

executive orders but dismissed the case for failure to show that judicial relief could likely redress those injuries within the court's institutional capacity.²⁸

By contrast, cases that tie the remedy directly to regulatory action have seen more success. In *NRDC v. Wheeler*²⁹, the court found standing because reversing the EPA's suspension of an HFC regulation would lead to a measurable drop in emissions and help address the environmental harm. Likewise, in *Held v. State*³⁰, Montana's court ruled that invalidating a law that prohibited consideration of greenhouse gases in environmental assessments would help restore plaintiffs' constitutional rights—even if the broader climate crisis remained unresolved. Together, these cases reflect a cautious but notable shift in how courts are approaching the standing doctrine in the context of climate litigation.

IV. Associational Standing

Environmental organizations must satisfy a similar requirement as individual plaintiffs.³¹ U.S. courts have found that there is standing if organization members could show that the environmental pollution in question directly affected their interests, excluding certain circumstances where the court found a lack of evidence demonstrating a clear link between the defendant's action.³² In *Lujan v. Defenders of Wildlife*, the Supreme Court rejected standing because the plaintiffs relied on 'someday intentions' to visit endangered species sites abroad, rather than concrete plans. The boundaries of this restriction were reaffirmed in *Friends of the Earth (FOE) v. Laidlaw*. The court in this case held that injury in fact was adequately documented by the affidavits and testimony of FOE members asserting that Laidlaw's pollutant discharges directly affected those affiants' recreational, aesthetic, and economic interests, and explained that that these submissions present more than the mere "general averments", "conclusory allegations", or "someday intentions" found inadequate in *Lujan v. Defenders of Wildlife*.³³

28 *Lighthiser v. Trump*, No. 2:25-cv-00054-DLC, slip op. (D. Mont. Oct. 15, 2025).

29 *NRDC v. Wheeler*, 958 F.3d 1088 (D.C. Cir. 2020).

30 *Held v. State of Montana*, No. CDV-2020-307 (Mont. Dist. Ct. 2023).

31 *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343. Following the decision in *Hunt v. Washington State Apple Advertising Comm'n*, it was accepted that association has standing to bring suit on behalf of its members when its members would have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires individual members' participation in the lawsuit.

32 See *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 US 167 (2000). See also *Sierra Club v. Morton*, 405 U.S. 727, 735 (1972). See also *Nat. Res. Def. Council, Inc. v. Wheeler*, 367 F. Supp. 3d 219 (S.D.N.Y. 2019), finding that the Natural Resources Defense Council and one of the state petitioners (New York) each had standing based on potential injuries from climate change, which were caused in part by hydrofluorocarbon emissions.

33 *Lujan v. Defenders of Wildlife*, 504 US 555, 564 (1992).

D. Climate Litigation Beyond the United States

Climate litigation beyond the United States reveals diverse judicial approaches to the threshold question of who may bring a climate-related claim. Although most jurisdictions do not explicitly use the structured three-part standing analysis familiar in the U.S., national, regional, and international courts frequently address issues such as whether plaintiffs have sufficient legal interests, if the claims are admissible, and how far the judiciary should extend its authority into climate-related disputes. In many jurisdictions, the concept operates under different doctrinal labels—such as admissibility, right to sue, or legal interest—but the core question of who may bring a claim remains central.

I. *Individual vs. Representative/Collective Action*

As examined in Section 2.4, U.S. standing doctrine requires environmental organizations to demonstrate associational standing. They must prove that specific members of the organization have suffered particularized harm from the alleged violations, rather than asserting generalized environmental concerns on behalf of the public. This stands in contrast to the broader public interest standing recognized in many European jurisdictions, where organizations may sue based on their mission alone.

In *Urgenda Foundation v. State of the Netherlands*³⁴, the Dutch courts affirmed Urgenda's legal standing based on Article 3:305a of the Dutch Civil Code, a provision permitting NGOs to litigate on behalf of broader affected groups. Likewise, in *Milieudefensie et al. v. Royal Dutch Shell*³⁵, the court permitted claims representing the collective interests of Dutch citizens and residents of the Wadden Sea area, validating a collective action approach against corporate entities contributing significantly to emissions.

In France, a coalition of environmental NGOs brought an administrative action alleging a *carence fautive* by the French State. The Administrative Court of Paris recognized the NGOs' standing and ruled in favor of the plaintiffs, ordering the government to take urgent action to reduce greenhouse gas emissions in line with its international commitments and domestic obligations. In Italy, the Supreme Court of Cassation affirmed the standing of environmental NGOs in *Greenpeace Italy et al. v. Eni S.p.A.* (July 2025), rejecting the argument that climate claims are non-justiciable political questions. By permitting the coalition to challenge a corporation's emissions, the Court aligned Italian jurisprudence with the broader European trend of recognizing organizational standing for collective climate redress.³⁶

34 *Urgenda Foundation v. State of the Netherlands*, ECLI:NL:HR:2019:2007 (Sup. Ct. Neth. Dec. 20, 2019).

35 *Milieudefensie et al. v. Royal Dutch Shell plc*, ECLI:NL:GHDHA:2024:2100 (Gerechtshof Den Haag [Court of Appeal of The Hague] Nov. 12, 2024).

36 *Greenpeace Italy et al. v. Eni S.p.A. et al.*, Cass., Sez. Un., 21 July 2025, n. 20381 (It.).

Beyond domestic courts, associational standing has emerged at the regional level as a pathway for plaintiffs to advance their claims, notably at the European Court of Human Rights. The European Court of Human Rights (ECtHR) broke new ground in *KlimaSeniorinnen v. Switzerland*³⁷, overturning earlier national judgments that had dismissed claims due to lack of individual harm. While the Court agreed with Swiss authorities that the individual applicants lacked “victim status”, it ruled that the association itself had standing, underscoring that climate change is a matter of “common concern of humankind” where collective action is essential to ensure effective protection. This pivotal distinction, expanding opportunities for organizational litigation, was reaffirmed in October 2025 in *Greenpeace Nordic and Others v. Norway*.³⁸ There, the Court dismissed the claims of six individual activists for failing to demonstrate direct “high-intensity” victim status, yet simultaneously granted standing to the applicant associations. The Court reasoned that NGOs act as essential guardians of collective rights in the climate context, effectively channeling systemic environmental challenges through organizational standing rather than individual claims.

European courts have also engaged with the generational dimensions of standing. In *Urgenda*, the Hague Court of Appeal held that *Urgenda* could represent the current generation of Dutch residents for purposes of admissibility.³⁹ Because standing was established on that basis, the court did not determine whether the organization could also act on behalf of future generations or individuals outside the Netherlands.⁴⁰

Two years later, Federal Constitutional Court of Germany Court (“Bundesklimaschutzgesetz” or “KSG” case) opened a new intergenerational pathway when it found that legislature had not proportionally distributed the budget between current and future generations, writing “one generation must not be allowed to consume large portions of the CO2 budget while bearing a relatively minor share of the reduction effort, if this would involve leaving subsequent generations with a drastic reduction burden and expose their lives to serious losses of freedom”.⁴¹ The decision also underscored that because filing a constitutional complaint to remedy the resulting constraints on freedom may be useless by the time the impairments materialize, the complainants have standing to file a constitutional complaint now.⁴² The constitutional complaints were brought by several individual complainants, including youth and minors, with support from civil society organizations such as Germanwatch and Friends of the Earth Germany.

37 Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, App. No. 53600/20, Eur. Ct. H.R. (Grand Chamber), Judgment of 9 April 2024.

38 Greenpeace Nordic & Others v. Norway, App. No. 34068/21 (Oct. 28, 2025).

39 Stichting Urgenda v Government of the Netherlands (Ministry of Infrastructure and Environment), ECLI:NL:RBDHA:2015:7196, Rechtbank Den Haag, C/09/456689/HA ZA 13-1396.

40 Ibid.

41 BVerfG, Order of 24 March 2021 - BvR 2656/18/1, BvR 78/20/1, BvR 96/20/1, BvR 288/20, http://www.bverfg.de/e/rs20210324_1bvr265618en.html [hereinafter “KSG”].

42 Ibid.

The recognition of a broader and more inclusive, socially grounded conception of standing is not confined to European jurisdictions. In the Philippines, *Minors Oposa v. Factoran* pioneered the concept of intergenerational standing, with the Supreme Court recognizing that both present and future generations have the right to sue to protect environmental resources.⁴³ India's *State of Meghalaya v. All Dimasas Students Union* illustrates the particularly liberal standing regime of the National Green Tribunal, which allows "any person" (not just affected individuals, but also public-spirited citizens, NGOs, or groups) to bring an environmental or climate-related claim.⁴⁴

Taken together, these cases reveal a divergence between U.S. and non-US approaches to climate standing. In several jurisdictions across Europe and Asia, courts allow claims to proceed through representative actions, collective interest litigation, or frameworks that accommodate intergenerational claims. Within these frameworks, NGOs may bring claims in a representative capacity on behalf of broader affected groups.

II. Injury-in-Fact: Particularized Harm

As examined in Section 2.1, a key barrier to establishing injury-in-fact in U.S. climate litigation is the particularization requirement. Does the fact that many others suffer the same harm invalidate a plaintiff's claim? Across various jurisdictions outside the U.S., courts have taken different approaches, with some dismissing cases on the grounds that the alleged harm was not sufficiently particularized to the plaintiff, while others have chosen to move past that hurdle either by not addressing the issue explicitly or by implicitly accepting a broader conception of standing.

The fact that the plaintiff was not the only one suffering from the climate-related harm has become a common basis for courts to reject cases on standing grounds. In *Armando Ferrão Carvalho and Others v. the European Parliament and the Council* (the People's Climate Case), the applicants, families in the agricultural or tourism sectors, challenged European Union regulations enacted to fulfill its GHG emissions reduction targets, which they claimed were insufficient to protect their lives, livelihoods, and human rights from the effects of climate change.⁴⁵ The EU General Court found the claimants—families originating from multiple continents—did not demonstrate sufficiently distinct personal harm, as their injuries mirrored those affecting the public at large.⁴⁶ On appeal, the Court of Justice of the European Union rejected the plaintiffs' arguments again and dismissed the claim, concluding that because everyone is affected by climate change the applicants could

43 *Oposa v. Factoran*, G.R. No. 101083, 224 SCRA 792, 33 I.L.M. 173 (S.C., Philippines July 30, 1993).

44 *In re Court on its Own Motion v. State of Himachal Pradesh*, National Green Tribunal (Feb. 2014).

45 Case C-565/19 P, *Armando Ferrão Carvalho and Others v. The European Parliament and the Council*, ECLI: EU:C: 2021:252 (Mar. 25. 2021).

46 Case T-330/18, *Carvalho v. Parliament and Council*, ECLI:EU:T:2019:324 (Gen. Ct. May 8, 2019).

not demonstrate that they were individually impacted by the European Union's climate policy.⁴⁷

A similar conclusion was reached by the Swiss Supreme Court in *Association of Swiss Senior Women for Climate Protection v. DETEC*, where a group of senior women alleged that weak national climate policies violated their constitutional and human rights. The Court upheld the lower court's dismissal, ruling that the plaintiffs had not demonstrated a sufficiently distinct impact to warrant judicial intervention.

This trend is not unique to European courts. In *Smith v. Fronterra Co-Operative Group Limited*, the Auckland High Court found that a plaintiff did not have standing to pursue a nuisance claim with regards to GHG emissions because "the damage claimed by [the plaintiff] is neither particular nor direct; it is not appreciably more serious or substantial in degree than that suffered by the public generally and there is no difference in kind between the damage that [...] other land owners, and members of the public who live in or use the coastal/marine area may suffer."⁴⁸

A similar reasoning can be found in Japan as well. In *Citizens' Committee on the Kobe Coal-Fired Power Plant v. Japan*, the Osaka District Court denied an injunction request to halt the construction and operation of two new units at a coal-fired power plant. The plaintiffs argued that the project was inconsistent with Japan's 2030 and 2050 climate targets, but the court found that their claims were general rather than individual and therefore lacked standing.⁴⁹ The case illustrates how Japanese administrative litigation law requires a "direct and personal" legal interest, making it difficult for public-interest-oriented climate cases to proceed.

More recently in July 2025, the Palembang District Court in Indonesia rejected the lawsuit filed by haze victims and Greenpeace Indonesia, adopting a restrictive interpretation of standing that ignored expert testimony on collective environmental harm.⁵⁰ Specifically, the court ruled that the residents' exposure to haze constituted a generalized public nuisance rather than a direct, individualized injury attributable to the defendants.⁵¹

In contrast to these restrictive approaches, several courts in Asia have explicitly moved away from requiring uniquely individualized harm in climate-related disputes. In *Ashgar Leghari v. Federation of Pakistan*, the Lahore High Court accepted a farmer's public interest petition challenging the government's inaction on its National Climate Change

47 Ibid.

48 *Smith v. Fronterra Co-Operative Group Limited* [2020] NZHC 419.

49 *Citizens' Committee on the Kobe Coal-Fired Power Plant v. Kobe Steel Ltd., et al.*, Sabin Center for Climate Change Law, last accessed 31 October 2023, <<https://climatecasechart.com/non-us-cases/citizens-committee-on-the-kobe-coal-fired-power-plant-v-japan/>>.

50 *South Sumatra Smoke Haze Victims v. PT Bumi Mekar Hijau*, Case No. 256/Pdt.G/LH/2024/PN Plg (Palembang Dist. Ct. July 3, 2025) (Indon.).

51 Ibid.

Policy, without demanding proof that his injury was distinct from that suffered by others.⁵² In *Minors Oposa v. Factoran*, the Philippine Supreme Court held that minors could sue on behalf of themselves and future generations to protect the right to a balanced and healthful ecology—a form of intergenerational standing that inherently dispenses with the “individual vs. general” distinction.⁵³ India’s National Green Tribunal, in *State of Meghalaya v. All Dimasa Students Union*, applied its statutory “any person” rule to admit claims concerning environmentally and climate-damaging coal mining.⁵⁴

These more flexible approaches resonate with reasoning seen in Europe and the United States when courts have chosen to move past the individualization hurdle. In KSG, the German Federal Constitutional Court stated that “the complainants are individually affected in their own freedom [and] the fact that the restrictions will affect virtually everyone living in Germany does not exclude the complainants from being individually affected.”⁵⁵ A similar line of reasoning can be found in *Juliana v. United States*, where a magistrate judge noted that alleged harms from climate change should not be “minimalized by the fact that vast numbers of the populace are exposed to the same injuries.”⁵⁶

The foregoing cases suggest that the particularization inquiry in climate litigation resists straightforward jurisdictional generalization. Instead, the case law reflects a more fundamental disagreement over whether the collective character of climate change is conceptually incompatible with individualized injury. Some courts continue to treat the distinction between personal and general harm as a strict threshold constraint. Others, however, have accepted that climate-related injury may retain legal particularity even when it is not unique to the claimant.

III. Three-Prong Test vs. Rights-Based Approach

One of the key takeaways from the comparative review of climate litigation is how differently courts across jurisdictions treat the concept of standing. While some, especially in the U.S., apply standing as a rigid procedural threshold that can block claims at the outset, others—most notably constitutional and human rights courts—approach it with greater flexibility. This divergence often determines whether climate cases are heard on their merits or dismissed before substantive issues are considered.

In the U.S., plaintiffs must clear all three components of constitutional standing: injury-in-fact, causation, and redressability. Courts have demanded a high level of specificity for each, resulting in the dismissal of several significant climate lawsuits. In *Lujan v.*

52 *Leghari v. Federation of Pakistan*, W.P. No. 25501/2015 (Lahore High Ct. Green Bench Sept. 4, 2015).

53 *Oposa v. Factoran*, G.R. No. 101083, 224 SCRA 792, 33 I.L.M. 173 (S.C., Philippines July 30, 1993).

54 *In re Court on its Own Motion v. State of Himachal Pradesh*, National Green Tribunal (Feb. 2014).

55 KSG at 39.

56 *Juliana v. United States*, 6:15-cv-1517-TC (D. Or. Jan. 14, 2016).

Defenders of Wildlife⁵⁷, for instance, the Supreme Court rejected the claim for lack of an imminent, concrete injury. In *Washington Environmental Council v. Bellon*⁵⁸, the Ninth Circuit held that plaintiffs had failed to show that regulating a handful of oil refineries would meaningfully redress their harm. In *Native Village of Kivalina v. ExxonMobil Corp*⁵⁹, the court found no sufficient causal link between the defendants' emissions and the climate impacts suffered by the village. And in *Juliana v. United States*⁶⁰, while the court acknowledged the plaintiffs' injuries and established causation, it ruled the case nonjusticiable on redressability grounds, concluding that the sweeping nature of the remedy sought—a national climate recovery plan—fell outside judicial power. None of these cases made it past the procedural gate to a full evaluation of the legal obligations at stake.

By contrast, courts in other jurisdictions have increasingly interpreted standing in a way that reflects the societal and intergenerational nature of the climate crisis. This is illustrated by cases already mentioned in previous sections: in *Neubauer v. Germany*, the German Federal Constitutional Court found that young people were particularly affected by insufficient climate targets and emphasized that standing should accommodate future risks and the principle of intergenerational justice⁶¹; in *KlimaSeniorinnen v. Switzerland*, the European Court of Human Rights accepted the standing of an association of elderly women, recognizing the group's unique vulnerability and the broader implications of inadequate climate policy.⁶²

South Korea offers another compelling example. In 2020, a group of young plaintiffs filed a constitutional complaint, alleging that the government's insufficient climate efforts violated their rights to life, equality, work, and a healthy environment. The government's opinion in response to the plaintiff's complaint was published in October 2020. The statement refuted each of the constitutional claims presented in the complaint and argued that plaintiffs lack standing because they are not the direct target of the GHG reduction regulations in question, meaning they are not directly related to the case.⁶³ The government went on to argue that with respect to the GHG reduction laws, not only the youth plaintiffs of this case but citizens in general are not a concerned party and rather closer to a third party, leaving plenty of questions to be answered in court.⁶⁴ The Constitutional Court, however, did not frame standing as a distinct procedural hurdle. Instead, it proceeded to

57 *Lujan v. Defs. of Wildlife*, 504 U.S. 555 (1992).

58 *Wash. Envtl. Council v. Bellon*, 732 F.3d 1131 (9th Cir. 2013).

59 *Native Vill. of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849 (9th Cir. 2012).

60 *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020).

61 *Neubauer et al. v. Germany*, BVerfG, 1 BvR 2656/18, Order of Mar. 24, 2021 (Ger.).

62 *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, App. No. 53600/20, Eur. Ct. H.R. (Grand Chamber), Judgment of 9 April 2024.

63 *Youth for Climate Action v. Republic of Korea*, Youth 4 Climate Action, <https://youth4climateaction.org/climate-litigation/?q=YToxOntzOjEyOiJrZXl3b3JkX3R5cGUiOiO3M6MzoiYWxsJt9&bmode=view&idx=7706326&t=board> (last accessed on 31 October 2023).

64 *Ibid.*, pp. 14-15.

consider the merits and ruled in 2024 that when legislation to protect the right to a healthy environment is absent or clearly insufficient, and such legislative failure leads to a violation of that right, individuals must be able to seek constitutional remedy.

Before South Korea's constitutional court decision, there was *Ashgar Leghari v. Federation of Pakistan*, where the Lahore High Court accepted a farmer's petition under the country's public interest jurisdiction, holding that any citizen can seek enforcement of constitutional rights where the government fails to implement climate policy.⁶⁵ This decision is widely regarded as Asia's first climate litigation win, setting a precedent for rights-based climate claims in the region.

These courts either dispensed with the need for individualized harm or interpreted it in a manner consistent with collective and future-oriented climate interests. In these examples, courts that adopt a more flexible view of standing tend to frame climate change as a rights-based issue or as a matter of democratic accountability.

E. Implications for Advancing Climate Litigation

Considering that this study engages with a considerable number of courts operating within different institutional settings, whether domestic or regional, and across both civil law and common law traditions, the analysis has been narrowed to judicial reasoning rather than legal system in detail. Across jurisdictions including the United States, Europe, and Asia, meaningful similarities and differences emerge in how courts approach the threshold question of standing. These variations are closely linked to how judges interpret the nature of climate harm and the identity of the claimant.⁶⁶ The legal characterization of climate change and of the plaintiff has a direct impact on access to justice.⁶⁷ From this perspective, certain interpretive approaches appear more likely to permit climate claims to proceed beyond the procedural threshold.

I. Representation and Organizational Claims

The comparative analysis suggests that the structure of organizational standing has consequences both for the framing and the frequency of climate litigation. Where standing doctrine permits non-governmental organizations to initiate claims in their own name or in a representative capacity, the range of potential claimants expands.⁶⁸ The procedural

65 *Leghari v. Federation of Pakistan*, W.P. No. 25501/2015 (Lahore High Ct. Green Bench Sept. 4, 2015).

66 *Peel / Osofsky*, note 7, p. 37.

67 *Annalisa Savaresi / Joana Setzer*, Rights-Based Litigation in the Climate Emergency: Mapping the Landscape and New Knowledge Frontiers, *Journal of Human Rights and the Environment* 13 (2022), p. 7.

68 *Randall S. Abate*, Standing, in: Margaretha Wewerinke-Singh / Sarah Mead (eds.), *The Cambridge Handbook on Climate Litigation*, Cambridge 2025, p. 105.

gateway is no longer confined to individuals who must assert and substantiate personal injury. As a structural matter, this increases the likelihood that climate related disputes will be brought before the courts.⁶⁹

At the same time, the design of associational standing shapes how such claims are articulated. In systems where an organization must ground its standing in the injury of specifically identified members, the litigation remains procedurally anchored in individualized harm.⁷⁰ Even when the dispute concerns systemic regulatory failure, the admissibility inquiry channels the case through personal impact.⁷¹ By contrast, when courts accept an organization's statutory mandate or representative function as sufficient to trigger review, climate claims may proceed without first resolving individualized injury at the threshold stage.

The difference is not merely technical. It affects both the practical capacity to initiate litigation and the legal construction of climate harm at the outset. Standing doctrine, in this respect, structures the conditions under which collective environmental risks are translated into judicial claims.

II. *Shared Harm and the Particularization Requirement*

The comparative cases also illuminate the structural tension between the particularization requirement and the collective character of climate harm. Climate change produces injuries that are widely distributed, cumulative, and often temporally extended. When standing doctrine insists that a plaintiff demonstrate harm distinct in kind from that suffered by the public at large, the very scale of the problem can operate as a barrier to judicial review.⁷²

The implication is not that particularization should be abandoned. Rather, its application depends on how courts conceptualize shared injury.⁷³ Some judicial approaches treat the fact that many are affected as disqualifying.⁷⁴ Others recognize that an injury may be individually experienced even if it is broadly shared.⁷⁵ This distinction has significant con-

69 Joana Setzer / Catherine Higham, *Global Trends in Climate Change Litigation: 2025 Snapshot*, Grantham Research Institute 2025.

70 *Lujan v. Defs. of Wildlife*, 504 U.S. 555 (1992); *Friends of the Earth, Inc. v. Laidlaw Env't Servs.*, 528 U.S. 167 (2000).

71 Heather Elliott, *The Functions of Standing*, *Stanford Law Review* 61 (2018), p. 459.

72 Case C-565/19 P, *Armando Ferrão Carvalho and Others v. The European Parliament and the Council*, ECLI: EU:C: 2021:252 (Mar. 25. 2021).

73 William A. Fletcher, *The Structure of Standing*, *Yale Law Journal* 98 (1988), p. 221.

74 *Association of Swiss Senior Women for Climate Protection v. DETEC*, Swiss Fed. Sup. Ct., 1C_37/2019 (May 5, 2020).

75 *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020); *Neubauer v. Germany*, 1 BvR 2656/18 (BVerfG Mar. 24, 2021).

sequences. If widespread impact is treated as evidence of generalized grievance, systemic environmental claims will struggle to proceed.⁷⁶

In this respect, the particularization requirement functions less as a fixed doctrinal rule and more as a site of interpretation. How judges understand the relationship between collective risk and personal injury directly shapes the accessibility of courts in climate disputes. The threshold inquiry therefore becomes a reflection of deeper assumptions about whether climate change is viewed as a diffuse political concern or as a legally cognizable injury affecting specific persons.⁷⁷

III. Rights-Based Approach and Specialized Fora

A further implication emerges from the treatment of standing within constitutional and human rights adjudication. In these settings, the threshold inquiry is often integrated into a broader assessment of rights protection rather than applied as a rigid preliminary filter.⁷⁸ The question is not framed solely as whether the claimant satisfies a discrete procedural test, but whether an alleged failure to protect fundamental rights warrants judicial review.⁷⁹

Crucially, the implications depend not only on whether a claim is framed in rights-based terms, but on the content of the constitutional text itself.⁸⁰ Where a constitution explicitly recognizes a right to a healthy environment or related environmental guarantees, climate harm is more readily understood as implicating a protected legal interest.⁸¹ Claimants need not derive environmental protection indirectly from broader rights such as life or dignity.⁸² By contrast, in systems where environmental protection must be inferred from more general constitutional provisions, plaintiffs often face an additional argumentative burden at the threshold stage. The existence of an explicit environmental right therefore alters the structure of the standing inquiry.

This shift in framing has significant consequences. When climate claims are articulated through constitutional or human rights provisions, particularly before specialized fora such as constitutional court or treaty-based human rights tribunals, the standing analysis moves

76 Douglas A. Kysar, What Climate Change Can Do About Tort Law, *Environmental Law Review* 41 (2011), p. 1.

77 Joseph W. Mead, The Climate Change Constitution, *Environmental Law Review* 83 (2020).

78 Savaresi / Setzer, note 68, p. 7.

79 Corina Heri, Climate Change before the European Court of Human Rights: Capturing Risk, Ill Treatment and Vulnerability, *The European Journal of International Law* 33 (2022), p. 925.

80 Annalisa Savaresi / Joana Setzer, note 79, p. 7.

81 David R. Boyd, *The Environmental Rights Revolution. A Global Study of Constitutions, Human Rights, and the Environment*, Vancouver 2012.

82 James R. May / Erin Daly, *Global Environmental Constitutionalism*, Cambridge 2015.

to the center of the logic of rights enforcement.⁸³ The focus moves from isolating individualized harm at the outset to assessing whether the claimant falls within the protective scope of a recognized right. In such contexts, the procedural threshold tends to operate in a more inclusive manner, particularly where environmental protection is constitutionally entrenched or linked to life, dignity, or intergenerational equity.⁸⁴

The implication is not that standing disappears, but that it is reconfigured. Where constitutional or human rights norms explicitly acknowledge environmental interests, courts are less likely to treat widespread or future oriented harm as categorically disqualifying.⁸⁵ The recognition and strengthening of a constitutional or human right to a healthy environment therefore bears directly on how the procedural gateway functions in climate litigation.⁸⁶

F. Conclusion

What the comparative analysis reveals is not a single global trend toward either expansion or contraction of standing, but a more specific pattern. Across jurisdictions, courts continue to ask a common threshold question: who may bring a climate-related claim before a court? Yet that question is framed through markedly different doctrinal forms, institutional settings, and judicial vocabularies. For that reason, standing in climate litigation is best understood in functional rather than purely formal terms. Whether expressed through Article III standing, admissibility, legal interest, victim status, or access to constitutional review, the procedural gateway remains central to the development of climate adjudication.

The cases examined here suggest three recurring points of divergence. The first concerns representation. U.S. doctrine generally requires organizations to anchor standing in the injury of identified members, while a number of courts outside the United States have been more willing to permit representative, collective, or public-interest claims. The second concerns the treatment of shared harm. Some courts continue to regard the widespread character of climate injury as a reason for denying access to judicial review, while others accept that a harm may be individually cognizable even when broadly shared. The third concerns the structure of threshold review itself. In the United States, injury, causation, and redressability operate as a distinct doctrinal framework. Elsewhere, especially in con-

83 *Verein KlimaSeniorinnen Schweiz v. Switzerland*, App. No. 53600/20 (Eur. Ct. H.R. Apr. 9, 2024); Advisory Opinion OC-23/17, *Environment and Human Rights*, Inter-Am. Ct. H.R. (Nov. 15, 2017).

84 *Neubauer v. Germany*, 1 BvR 2656/18 (BVerfG Mar. 24, 2021); *Lhaka Honhat (Our Land) Ass'n v. Argentina*, Inter-Am. Ct. H.R. (Feb. 6, 2020).

85 *John C. Dernbach*, The Value of Constitutional Environmental Rights and Public Trusts, *Pace Environmental Law Review* 41 (2024), p. 153; *Pau de Vilchez Moragues / Annalisa Savaresi*, The Right to a Healthy Environment and Climate Litigation: A Game Changer?, *Yearbook of International Environmental Law* 32 (2021), p. 3.

86 *Jan Darpö*, Principle 10 and Access to Justice, 28 April 2017, <http://jandarpo.se/wp-content/uploads/2021/10/2016-A2J-Final-Skick.pdf>, (last accessed on 28 February 2026).

stitutional and human rights settings, comparable threshold questions are often embedded within a broader analysis of rights protection, constitutional function, or statutory purpose.

Viewed in that light, the value of the comparison lies in bringing the underlying judicial reasoning into sharper focus. Courts may be asking a functionally similar question at the threshold stage, yet the answer often turns on how they characterize the plaintiff, the harm, and the judicial task itself. Those choices are consequential. They shape whether climate injury is treated as too diffuse for adjudication, whether collective or future-oriented claims can be heard, and whether procedural doctrine is applied as a strict gatekeeping device or as part of a broader framework of legal protection. For climate litigants and advocates, this has practical significance: the prospects of surviving the standing stage depend not only on the doctrine of a given system, but also on the interpretive approach a court is prepared to adopt. Attention to those interpretive and institutional differences, including the three threshold questions identified in this article, may be especially important at the time of filing, because the framing of climate harm and the court's role may significantly influence whether a climate claim survives the standing inquiry.



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