

# LEGAL MOBILISATION: LEGAL STRATEGIES FOR SOCIAL CHANGE

How **human rights law** is used strategically by various groups to **protect, expand, and restrict** the legal rights of certain groups across different jurisdictions.



## INTRODUCTION

**Human Rights Law** exists at three main levels: National Constitutions, domestic legislation and international law (e.g. the Universal Declaration of Human Rights).<sup>1</sup>

These laws operate to limit State power and protect rights of different groups. Where the rights claimed by different groups are **in opposition**, it is the role of the Courts to balance the interests of competing rights.<sup>2,3</sup>

**Legal Mobilisation** is the strategic use of law by various actors to pursue social or political goals.

- These include social groups, advocacy organisations, corporations, Governments and individuals.<sup>4,5,6</sup>

This strategy has been employed by actors seeking to **extend, progress and protect rights** of marginalised groups, as well as actors seeking to **resist extensions of rights** by suppressing or undermining those who oppose their position (known as "**lawfare**").<sup>6</sup>

### OTHER TERMINOLOGY USED IN THE LITERATURE:

- juridification and judicialisation are often used to discuss judicial over-involvement in law-making.<sup>7,8</sup>
- law-based advocacy, counter-mobilisation, strategic litigation are used similarly to legal mobilisation.<sup>4,5,8</sup>
- Legal mobilisation has been used to describe both positive and negative use of the law, whilst lawfare is used more in reference to the use of legal tools for restrictive or illegitimate purposes.<sup>5,6,8</sup>

## METHODOLOGY

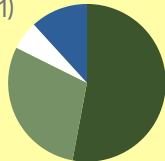
- A summary of 17 articles from 2012-2025
- **Types:** case studies (3), systematic reviews (2) theoretical discussion or policy analysis (12).

### AREAS OF RIGHTS

- climate change (2)
- women's rights (2)
- LGBTQ+ rights (4)
- religious freedom (4)

### JURISDICTIONS

- Global (9)
- Europe (5)
- Africa (2)
- South America (1)



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## USING THE LAW TO EXPAND & PROTECT RIGHTS:

A court's job is to interpret and make decisions on laws in the cases in front of them.

These decisions then become law, and so future decisions must then align with these interpretations of law - interpretations become "**legal precedent**".<sup>2</sup>

Various actor groups use certain cases involving human rights law interpretation to argue for **broader rights protections** to become law - this is known as **strategic litigation**.<sup>2,4</sup>

Marginalised groups, such as **LGBTQ+ groups** and **women's rights groups**, have used strategic litigation to claim **expanded** interpretations of existing rights:

- Recognition of same-sex relationships and gender identity rights as part of the right to freedom of self-expression.<sup>6,9,10</sup>
- Recognition of women's rights such as reproductive rights.<sup>6,11</sup>

**Climate advocacy groups** have also successfully held corporations accountable for environmental harms where Courts have ruled certain Corporate acts to be inconsistent with human rights legislation and therefore unlawful.<sup>12,13</sup>

Legal mobilisation by progressive movements is important to ensure that the law exists as intended and continues to develop in a way that aligns with human rights principles and standards.<sup>5,6</sup>

## USING THE LAW TO LIMIT AND RESTRICT RIGHTS:

Conservative actor groups use legal tactics to argue for **narrower rights protections**, to challenge existing rights or the extension of rights of opposing groups - using human rights language and liberal-legal frameworks previously used by progressive groups.<sup>2,14,15</sup>

Conservative groups, such as **religious organisations** and **anti-abortion groups**, have used strategic litigation to claim competing rights interpretations for the purpose of limiting rights:

- Religious freedom claims have been used to challenge LGBTQ+ equality protections, arguing that anti-discrimination laws violate the right to religious expression - this has been referred to as "spiritual lawfare".<sup>10,14,15</sup>
- Anti-abortion claims also utilise human rights language regarding rights to life and personhood.<sup>16</sup>

**SLAPP suits (Strategic Lawsuits Against Public Participation)** are a form of legal strategy to silence opposing groups, such as environmental and human rights advocacy groups for the purpose of draining their legal resources and making it difficult for them to continue their work.<sup>6,17</sup>

Legal mobilisation by conservative movements demonstrates that the same legal tools can be used to restrict rights, creating competing precedents that courts must navigate when faced with competing rights claims.<sup>2,14</sup>

## POLICY CONSIDERATIONS

**Understanding the legitimate use of legal mobilisation:** The same legal strategies can be used to either to protect human rights and uphold the original purpose of the law, or to be used to limit or co-opt the rights of others. A greater understanding of where legal mobilisation becomes illegitimate should help to guide future policy.<sup>2,8,14</sup>

**Jurisdictional differences:** Variations in both the structure and content of human rights legislation and legal frameworks in different jurisdictions makes it difficult to create universal policy recommendations.<sup>6</sup>

**Power Asymmetry between actor groups:** How legal claims are backed by advocacy and interest groups significantly impacts case outcomes and successful use of legal tools. Consideration must go beyond the merits of cases and consider the power position of groups advocating for human rights.<sup>6,10</sup>

**Legitimacy through Law:** Further consideration and investigation should also be directed towards to the ways in which the law is able to legitimise and push forward wider social movements through the expansion of rights within those groups or movements.<sup>8,14</sup>

<sup>1</sup>Indoe, D., Bullock, M., & Hagenaaers, P. (2024). Psychology and human rights—Introduction to the special issue. *International Journal of Psychology*, 59(2), 215–217. <sup>2</sup>Blokker, P. (2024). Using liberal-legal tools for illiberal gains: The European Court of Human Rights and legal mobilisation by conservative right-wing actors. *International Journal of Law in Context*, 20(3), 401–418. <sup>3</sup>Handmaker, J. (2023). Introduction to the legal mobilization special focus. *Journal of Human Rights Practice*, 15(1), 1–5. <sup>4</sup>Handmaker, J., & Taekema, S. (2023). O Lungo Drom: Legal Mobilization as Counterpower. *Journal of Human Rights Practice*, 15(1), 6–23. <sup>5</sup>Lehoucq, E., & Taylor, W. K. (2020). Conceptualizing Legal Mobilization: How Should We Understand the Deployment of Legal Strategies? *Law & Social Inquiry*, 45(1), 166–193. <sup>6</sup>Matthews, T. (2023). Interrogating the Debates Around Lawfare and Legal Mobilization: A Literature Review. *Journal of Human Rights Practice*, 15(1), 24–45. <sup>7</sup>Marques, M., & Moradel-Vásquez, J. J. (2025). Juridification through rights: How the European Court of Human Rights shapes higher education. *Journal of Education Policy*, 40(6), 1039–1061. <sup>8</sup>Brinks, D. M., & Pérez, G. (2025). Legalization, Judicialization, Lawfare: On the Light Side and the Dark Side of the Turn to Law. *Annual Review of Law and Social Science*, 21, 55–70. <sup>9</sup>Schafer, J. K., & Scholitz, I. (2024). Introduction: Legal Mobilization in Nordic Civil Society. *Nordic Journal of Human Rights*, 42(1), 1–10. <sup>10</sup>Ozanne, J., Garcia Oliva, J., & Hall, H. (2025). Spiritual Lawfare: The Use and Misuse of Litigation in the Context of Human Rights, Religious Freedom, and Competing Human Rights. *Oxford Journal of Law and Religion*, 14(1), 25–41. <sup>11</sup>Comstock, A. L. (2024). Signing CEDAW and Women's Rights: Human Rights Treaty Signature and Legal Mobilization. *Law & Social Inquiry*, 49(2), 1222–1256. <sup>12</sup>Gloppen, S., & St Clair, A. L. (2012). Climate Change Lawfare. *Social Research*, 79(4), 899–930. <sup>13</sup>Adigun, M. (2024). Companies' Human Rights: The Implications for a Human Rights Approach to Climate Change Litigation in South Africa. *Nordic Journal of Human Rights*, 42(3), 366–383. <sup>14</sup>Ozgul, C. (2017). Beyond religious reform: The legal mobilization of religious groups in the European Court of Human Rights. *Religion, State and Society*, 45(3–4), 317–333. <sup>15</sup>Harms, L. (2021). Claiming Religious Freedom at the European Court of Human Rights: Socio-Legal Field Effects on Legal Mobilization. *Law & Social Inquiry*, 46(4), 1206–1235. <sup>16</sup>De Assis Machado, M. R. (2023). Antiabortion legal mobilization in Brazil: Human rights as a field of contention. *International Journal of Constitutional Law*, 21(1), 308–338. <sup>17</sup>Murombo, T., & Valentine, H. (2011). Slapp Suits: An Emerging Obstacle to Public Interest Environmental Litigation in South Africa. *South African Journal on Human Rights*, 27(1), 82–106.