

**S**EE YOU IN COURT!" THAT'S THE message from innovative environmentalists who have had enough of politely requesting politicians and big business leaders to do the right thing.

In conservation, being polite rarely works. Just look at our environmentally criminal water companies to see how profit takes priority over civic responsibilities and moral principle.

It's not surprising that ever more urgent and alarming environmental threats are forcing conservationists to consider more unorthodox and uncompromising tactics. Which is why holding big corporations and governments accountable – by taking them to court – is becoming an increasingly significant conservation tool.

Climate change litigation is leading the way, against governments, fossil fuel companies and anyone else apparently determined to drive a wrecking ball through international climate commitments.

ClientEarth and its partners Friends of the Earth and the Good Law Project, for example, took the Government to court over its inaction to reduce greenhouse gas emissions – which did not meet its own legally binding targets. They won. The High Court ruled against the Government's inadequate net-zero strategy and ordered a revised climate plan. (Regrettably, its latest plan has still been deemed insufficient, so the environmentalists will be going back to court.)

Many other conservation issues are finding their way to the courtrooms. The Blue Marine Foundation, for instance, is taking the Government to court for ignoring scientific advice on fishing quotas. It claims that, by setting catch limits too high, the government is giving the green light to overfishing. Blue Marine's challenge will argue that the government is 'illegally squandering' a public asset and, in the process, breaking its own post-Brexit rules.

Wild Justice also uses the legal system to fight for the UK's wildlife. Its successes include (in partnership with the Northern Ireland Badger Group) taking the Northern Ireland Department for Agriculture,

Environment and Rural Affairs to the High Court over a proposed cull of up to 4,000

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A proposed badger cull became the subject of a High Court battle



“Taking governments to court is a significant conservation tool”

# MARK CARWARDINE

OPINION

badgers a year (which would have allowed farmer-led groups to shoot free-roaming badgers with rifles). In a judgement handed down in October last year, it was ruled that the decision to allow the cull 'was so fundamentally flawed as to be unlawful'.

The good news for these organisations is that many countries are making environmental lawsuits easier, by giving nature legal rights. It's a game-changer.

Currently, while laws governing everything from endangered species to clean water are well established around the world, they are often about permitting harmful activities, such as hunting or house-building. This rather archaic approach to conservation is being re-evaluated. The idea is to mirror human rights (which have been long understood and enshrined in law) by giving wildlife and wild places the legal right to exist and flourish. This makes it easier for

litigators to argue that a specific action (or, sometimes, lack of action) is against the law.

Ecuador was the first country to recognise Rights of Nature in its constitution, in 2008, and Bangladesh, New Zealand and Colombia have followed suit. Needless to say, the UK is not on board. It seems our legal system continues to see nature as inanimate and treats it as property,

with owners' rights taking precedent. In my view, we should be ashamed.

Not all environmental litigation is about conservation, of course. Some lawsuits seek to impede campaigning, protesting and, in particular, direct action. Others challenge regulations or policies (such as those leading to greenhouse gas emissions reductions or other 'positive' climate outcomes) that might reduce short-term profit.

But here's a solution – beat them at their own game. 🐾

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