

Citizens can productively change politics by taking the law to court

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If you think threatening suit is a conversation stopper, think again. Citizen lawsuits can actually promote compromise between lawmakers and influence decisions to pay for public goods like clean water, air, and health care.

In a new paper published in the current issue of the *American Journal of Political Science*, Santa Fe Institute Omidyar Fellow Marion Dumas looks at 40 years of U.S. environmental laws to ask what impact litigious citizens have on the political bargaining process.

"I was very curious to understand how citizens' access to courts, to implement laws such as the American Disabilities' Act or the Clean Water Act, changes democratic life and the way lawmakers make law. The way I approached the problem was to ask how Congress would make distributive decisions without the input down the road of citizens in courts," Dumas said. "In [political science](#), we think of this as a big bargaining problem."

Since political scientists often use game theory to understand bargaining, Dumas set out to build a game theory analysis to explore this problem.

"In carrying out my analysis, I realized when large numbers of citizens have a say about how laws are implemented on the ground, extreme positions don't survive," Dumas said.

Specifically, she shows that when legislators hold polarized positions on

a public good, they use and even abuse particularistic spending—"pork" for a given lawmaker's district—to build coalitions that advance their extreme positions. But with citizen suits, members of the public can reshape how these policies are implemented on the ground. The variety of citizens who mobilize in courts, from firms, to NGOs, to municipalities, collectively forge a more just and representative middle ground. In anticipation of this process, legislators who might otherwise seek a hardline find themselves in a weaker bargaining position. As a result, the legislature as a whole moves toward a middle ground.

The idea that [citizen](#) suits can influence the political bargaining process adds a new element to political economists' understanding of the relationship between law and politics. Dumas' research is particularly relevant today as socially minded citizens wonder how to promote spending on public goods.

More information: Marion Dumas, Taking the Law to Court: Citizen Suits and the Legislative Process, *American Journal of Political Science* (2017). [DOI: 10.1111/ajps.12302](https://doi.org/10.1111/ajps.12302)

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