

**THE ROLE OF GREEN PARTIES IN PROMOTING CLIMATE CHANGE  
GOALS AND THE LEGISLATIVE BARRIERS BLOCKING A US GREEN  
PARTY**

Climate Change Law, Research & Writing (Spring 2023): Final Paper

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***I. Introduction***

A frequent criticism of the American political landscape is that the two-party system does not accurately represent all the citizens’ views. This paper posits that a third, Green, Party would be consequential to green politics and climate-friendly legislation. In doing so, this paper will first analyze the role of political parties in the United States to provide an understanding of the role parties play in translating



citizen's interests into legislative action. Then, it will examine the role Green parties have played in Australia, Ireland, and New Zealand in passing climate-friendly legislation. Lastly, this paper will analyze the U.S. legislative barriers blocking Green Parties from becoming mainstream in U.S. politics.

## ***II. The Role of Political Parties in the United States***

Political parties are often described as people with similar interests working together to translate those interests into policies.<sup>1</sup> They play an important role in passing legislation that fits their agenda.

### ***a. The Legislative Role of Political Parties***

Political parties can be understood as growing out of collective action problems as a way to solve the problems that arise in our society.<sup>2</sup> The idea of these types of groups dates back to the 18<sup>th</sup> century, when James Madison discussed the inevitable formation of self-interested “factions” by individuals to protect themselves from the government in *Federalist* No. 10.<sup>3</sup> Political parties work to accomplish this goal by trying to directly influence public policy through its members who work to gain control in the government by winning and holding public office.<sup>4</sup> If a party is successful, and gains power in the government, the party becomes able to deliver its policy preferences to its voters.<sup>5</sup> However, parties must be strategic. Political parties set forth their positions on critical issues important to voters in their party platforms.<sup>6</sup> However, if a party builds too narrow of a voter base, by taking positions on issues too few people agree with, it may find itself marginalized, but if a party chooses too broad of positions, members of the party may find themselves facing inter-party disagreement, and have difficulty passing legislation.<sup>7</sup>

As mentioned above, a party's platform reveals its stance on critical issues, and indicates what type of goals the party is working towards, as well as potentially what type of legislation the party would support or oppose. To illustrate what this looks like, take, for example, the Democratic Party Platform. It explicitly states

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1. GLENN KRUTZ & SYLVIE WASKIEWICZ, AMERICAN GOVERNMENT 3E (2021) (ebook).
  2. *Id.*
  3. *Id.*
  4. *Id.*
  5. *Id.*
  6. *Id.*
  7. *Id.*



what type of legislation it will support, including: legislation that would strengthen whistleblower and anti-retaliation protections for workers who speak out, federal legislation to make it easy for all workers to save for retirement, legislation requiring guns to be stored safely in homes, and legislation that would restore and strengthen the Voting Rights Act.<sup>8</sup> And, for example, it specifically opposes laws that create barriers to reproductive health and rights.<sup>9</sup> These examples likely come as no surprise, and line up well with Democratic Party ideals. The Republican Party Platform explicitly states it supports legislation safeguarding and defending religious liberty, Second Amendment friendly legislation recognizing the right of American citizens to carry firearms in all 50 states, and legislation applying 14<sup>th</sup> Amendment protections to children before birth.<sup>10</sup> It specifically opposes laws restricting magazine capacity or laws that ban the sale of certain rifles, for example.<sup>11</sup> The same as the Democratic Party platform, these stances usurpingly align with Republican Party ideals.

Political parties exist to win elections which allows them to influence public policy.<sup>12</sup> Members of a political party who have been elected or appointed to public office naturally want to achieve their policy goals.<sup>13</sup> How these goals will be achieved is chosen in the party's meetings—Republican meetings are referred to as party conferences, and Democratic meetings are called party caucuses.<sup>14</sup> At these closed sessions, the members of the party meet to discuss what will be put on the legislative agenda, decide which party members will serve on the committees that draft the proposed laws, and elect those who will serve as party leaders and whips in the House and Senate.<sup>15</sup> Importantly, the party whip is responsible for ensuring that when a piece of legislation is going to be voted on, the members are present, and the whip directs members on how to vote.<sup>16</sup>

Political parties clearly serve a purpose in our government, which is to influence public policy, and when in government, that comes in the form of passing

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8. *Party Platform*, DEMOCRATS, file:///Users/eclites/Downloads/2020-Democratic-Party-Platform%20(3).pdf (last visited Feb 13, 2023).

9. *Id.*

10. *Who We Are*, GOP, [https://prod-static.gop.com/media/Resolution\\_Platform.pdf?\\_ga=2.16531190.1715780324.1682814707-1427085791.1682814707](https://prod-static.gop.com/media/Resolution_Platform.pdf?_ga=2.16531190.1715780324.1682814707-1427085791.1682814707) (last visited Feb 13, 2023).

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*



or opposing legislation. Political parties, due to their very nature, contribute to a divided government, which occurs when one or more legislative houses are controlled by the party that is in opposition to the executive.<sup>17</sup> Under a divided government, both the political party and the government can struggle as a whole when the necessary cooperation between Congress and the President to pass legislation is stalled due to political differences.<sup>18</sup> For example, divided government has resulted in government shutdowns, most recently from December 22, 2018 to January 25, 2019, the longest government shutdown in history.<sup>19</sup> The 2018-2019 shutdown started at the end of December 2018, with President Trump and a Republican controlled legislature unable to pass a funding bill, with funding for President Trump's border wall at the heart of the debate and causing conflict with Democrats in the legislature.<sup>20</sup> The shutdown only intensified when Democrats gained control of the House of Representatives, and passed two funding bills that did not include border wall funding, both of which were promptly rejected by Republican Senate leaders.<sup>21</sup> Talks between Democrats, Republicans, and President Trump continually failed throughout the shutdown, which ultimately ended when congressional leaders and President Trump reached an agreement for a short-term spending bill without border wall funding.<sup>22</sup> While the end of the shutdown was a clear benefit to citizens, with no border funding included, Democrats claimed a win and Trump faced backlash from conservatives, who saw this as a concession.<sup>23</sup> The 2018-2019 shutdown is a clear example of a power struggle on display between the two political parties in the United States.

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17. KRUTZ, *supra* at 1.

18. *Id.*

19. Denise Lu and Anjali Singhvi, *Government Shutdown Timeline: See How the Effects Are Piling Up*, N.Y. TIMES (Jan. 28, 2019), <https://www.nytimes.com/interactive/2019/01/08/us/politics/government-shutdown-calendar.html>.

20. See, Julie Hirschfeld Davis and Emily Cochrane, *Government Shut Down as Talks Fail to Break Impasse*, N.Y. TIMES (Dec. 21, 2018), <https://www.nytimes.com/2018/12/21/us/politics/trump-shutdown-border-wall.html?searchResultPosition=1>; *US Government Shutdown: A Timeline*, AL JAZEERA (Jan. 26, 2019), <https://www.aljazeera.com/news/2019/1/26/us-government-shutdown-a-timeline>; Bob Bryan, *The Government Shutdown is Now the Longest On Record and the Fight Between Trump and Democrats is Only Getting Uglier. Here's Everything You Missed.*, Business Insider (Jan. 21, 2019, 2:13 PM), <https://www.businessinsider.com/government-shutdown-timeline-deadline-trump-democrats-2019-1>.

21. See, *US government shutdown: A Timeline*, *supra* at 20; Bryan, *supra* at 20.

22. *US government shutdown: A Timeline*, *supra* at 20.

23. Steve Holland and Richard Cowan, *Backing Down, Trump Agrees to End Shutdown Without Border Wall Money*, REUTERS (Jan. 25, 2019, 6:06 AM), <https://www.reuters.com/article/us-usa-shutdown/backing-down-trump-agrees-to-end-shutdown-without-border-wall-money-idUSKCN1PJ126>.



While the 2018-2019 government shutdown illustrates the dividedness and damage political parties can cause, it can certainly feel like a win when a party succeeds in enacting their policy goals, like passing legislation desired by their supporters, a large part of the role of political parties. The Democratic Party recently saw a huge success in the passing of the Inflation Reduction Act. The Inflation Reduction Act was signed into law by President Joe Biden on August 16, 2022 and includes aspects like prescription drug pricing reform, maximum out-of-pocket caps for Medicare Beneficiaries, and environmental benefits such as providing funding to conservation programs and the Environmental Protection Agency (EPA) to establish a greenhouse gas reduction fund.<sup>24</sup> Democrats used the fast-track legislative process called reconciliation, allowing them to bypass unanimous opposition from Republicans in the Senate with a vote of 51 to 50, evenly split along party lines, with Democratic Vice President Kamala Harris casting the tiebreaking vote.<sup>25</sup> The “sweeping” and “massive” Act was called a “win” for the Democratic Party and Democrat President Joe Biden<sup>26</sup>, and illustrates the role that political parties play in passing legislation favorable to their policy preferences and goals when they have the power necessary to do so.

***b. The Role of Political Parties in the Judiciary and the Politicization of the Supreme Court***

As stated above, political parties clearly play a strong and important role in our political process. While the above section focused on the role political parties play in passing legislation and pushing issues to the forefront of legislation, this section will briefly look at the role political parties play in influencing the judicial system, specifically the Supreme Court of the United States, which can certainly play a large role in advancing or dismantling environmental protections.

Supreme Court justices are nominated by the president of the United States and appointments are made with the advice and consent of the Senate.<sup>27</sup> After the

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24. Inflation Reduction Act of 2022, H.R.5376, 117th Congress (2022).

25. Kevin Breuninger, *House Passes Massive Climate, Tax and Health Bill, Sending Biden a Core Piece of His Agenda to Sign*, CNBC (Aug. 12, 2022, 9:05 PM), <https://www.cnn.com/2022/08/12/house-to-vote-on-inflation-reduction-act-tax-and-climate-bill.html>; Melissa Quinn, *Senate Passes Democrats’ Sweeping Climate, Health and Tax Bill, Delivering Win for Biden*, CBS NEWS (Aug. 8, 2022, 7:16 PM), <https://www.cbsnews.com/news/inflation-reduction-act-senate-pass-climate-healthcare-tax-bill/>.

26. Breuninger, *supra* note 25; Quinn, *supra* note 25.

27. Judiciary, UNITED STATES SENATE, [https://www.senate.gov/reference/reference\\_index\\_subjects/Judicial\\_Branch\\_vrd.htm#:~:text=The%2](https://www.senate.gov/reference/reference_index_subjects/Judicial_Branch_vrd.htm#:~:text=The%2)



president nominates someone to fill a vacancy on the court, the Senate votes to confirm the nominee, which requires a simple majority.<sup>28</sup> Both the Legislative and Executive Branches of the U.S. government play a role in who sits on the Supreme Court. Presidents appoint individuals who share the same viewpoints as them, and when one political party controls both the Senate and the presidency, it is easier to ensure someone who represents the viewpoints of the party in power will sit on the court, and work to carry out the party's' goals.<sup>29</sup> For example, with a right-leaning majority on the Supreme Court, the Republican Party recently succeeded in carrying out their goal of overturning *Roe v. Wade* and by extension, *Planned Parenthood v. Casey*, when the Supreme Court decided in *Dobbs v. Jackson Women's Health Organization*, a constitutional right to an abortion did not exist.<sup>30</sup>

Obviously, the issue arises when the presidency and Senate are controlled by different political parties. Former Democratic President Barack Obama's ultimately failed attempt to appoint Merrick Garland to the Supreme Court in 2016 is probably the most recently recognizable instance of this. After Justice Antonin Scalia's death, before President Obama had even named Merrick Garland, then Senate Majority Leader Mitch McConnell (R-Ky) in an unprecedented decision, declared any appointment by President Obama would be null and void, and, as President Obama was nearing the end of his term, the vacancy should be filled by the next president.<sup>31</sup> McConnell's decision was backed by the 11 Republican members of the Senate Judiciary Committee who signed a letter declaring no intention to consent to any nominee who came from President Obama.<sup>32</sup> No proceedings were held on Garland's appointment, Republicans ignored the vacancy and nomination, and Garland set the record for the longest gap between a Supreme Court vacancy and nomination.<sup>33</sup> This political power play ultimately negatively impacted the Supreme Court, which had to convene with only eight justices, split directly across partisan lines with four justices appointed by Democrats and four appointed by

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0Supreme%20Court%20consists%20of,Supreme%20Court%20cases%20on%20Findlaw%20\_(last visited Mar. 26, 2023).

28. FAQs – General Information, SUPREME COURT OF THE UNITED STATES, [https://www.supremecourt.gov/about/faq\\_general.aspx](https://www.supremecourt.gov/about/faq_general.aspx) (last visited Mar. 26, 2023).

29. KRUTZ, *supra* note 1.

30. *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022).

31. Ron Elving, *What Happened with Merrick Garland In 2016 And Why It Matters Now*, NPR (June 29, 2018, 5:00 AM), <https://www.npr.org/2018/06/29/624467256/what-happened-with-merrick-garland-in-2016-and-why-it-matters-now>.

32. *Id.*

33. Eric Bradner, *Here's What Happened When Senate Republicans Refused to Vote on Merrick Garland's Supreme Court Nomination*, CNN POLITICS (Sept. 19, 2020 8:16 PM), <https://www.cnn.com/2020/09/18/politics/merrick-garland-senate-republicans-timeline/index.html>.



Republicans.<sup>34</sup> Mindful of the split and now shorthanded, the Court’s activity dramatically slowed down, with the Court deadlocked on some issues, and declined to take others.<sup>35</sup>

The vacancy turned into a key political point in the election battle between Donald Trump and Hillary Clinton, and became a powerful tool for Donald Trump to motivate conservative voters back in 2016—which worked. A CNN exit poll conducted in 2016 showed that of voters who stated the Supreme Court was the “most important factor” in their decision, 56% of them voted for Donald Trump.<sup>36</sup> (include Kavanaugh’s confirmation as well & Amy Coney Barrett)

in your vote, were supreme court appointments:			
	clinton	trump	other/no answer
the most important factor 21%	41%	56%	3%
an important factor 48%	49%	46%	5%
a minor factor 14%	49%	40%	11%
not a factor at all 14%	55%	37%	8%
24558 respondents			

The Supreme Court’s decision in *West Virginia v. EPA.*, in which the Court limited the Environmental Protection Agency’s (EPA) power to regulate emissions,<sup>37</sup> which is a critically necessary step to mitigating already occurring climate change, is a clear demonstration of the role political parties play in advancing their goals through the judiciary. The justices’ votes squarely fell down partisan lines, with the 6 “conservative” justices in the majority and the three “liberal” justices dissenting.<sup>38</sup> The majority held that Congress did not grant the EPA the authority to adopt its own regulatory scheme, while the dissent lamenting the Court stripping the EPA of

34. Elving, *supra* note 31; *id.*

35. Elving, *supra* note 31; Bradner, *supra* note 33.

36. Jane Coaston, *Polling Data Shows Republicans Turned Out for Trump in 2016 Because of the Supreme Court*, VOX (June 29, 2018, 10:00 AM), <https://www.vox.com/2018/6/29/17511088/scotus-2016-election-poll-trump-republicans-kennedy-retire>.

37. *West Virginia v. EPA*, 142 S. Ct. 2587 (2022).

38. *Id.*





“the power Congress gave it to respond to ‘the most pressing environmental challenge of our time’”.<sup>39</sup>

With an understanding of the role political parties play in the government, in passing legislation, and the judiciary established, the following section will argue the benefits of a viable Green Party in the United States. As argued below, a Green Party would play a significant political role in promoting environmentally-friendly legislation.

### ***III. The Role of Green Parties in Passing Climate-Friendly Legislation***

Green Parties can play a significant role in passing environmentally-friendly legislation. International Green Parties in friendlier political systems demonstrate the role that a Green Party can have in passing climate friendly legislation, and even where legislation is not immediately passed, getting climate-protective parties in power is alone a success. This section will examine international Green Parties in Australia, Ireland, and New Zealand to provide examples of how a successful Green Party can play a role in passing and influencing protective climate legislation.

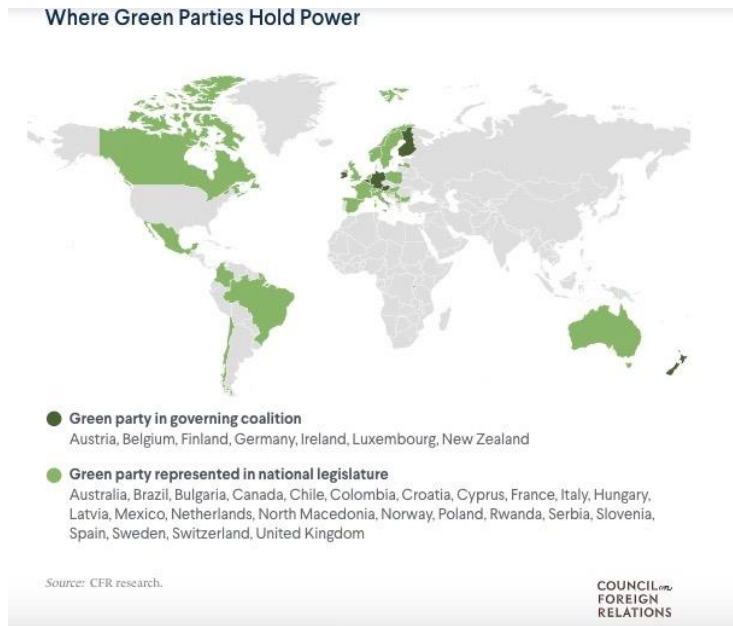
#### ***a. The Role of Green Parties in Australia***

Australia is one of the countries where the Green party is represented in national legislature, and has seen recent success in enacting its legislative environmental policy goals.

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39. *Id.* at 78.





Founded in 1992, the Australian Green Party, (“The Greens”) consists of a confederation of eight state and territory parties, as well as the First Nations Network.<sup>40</sup> The party is based on four key principles: 1) ecological sustainability, 2) grassroots democracy, 3) social justice, and 4) non-violence.<sup>41</sup>

The Greens recorded their best ever election result in Australia’s 2022 federal election, becoming the largest third party in the Senate, and made gains in the lower house as well.<sup>42</sup> The party’s primary vote increased nationally from 1.9% to 12.3%, and the party attracted almost two million primary votes.<sup>43</sup> The Green Party gained a record of 16 federal parliamentarians, and increased from just one to four lower house members of parliament (MPs), by winning three and holding one.<sup>44</sup>

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40. *About the Greens*, THE GREENS, <https://greens.org.au/about> (last visited Mar. 26, 2023).

41. *Id.*

42. Elena Morresi, *Australian Election 2022: Labor Wins as Greens and Independents Make Major Gains – Video Report*, THE GUARDIAN (May 21, 2022, 14:58), <https://www.theguardian.com/australia-news/video/2022/may/21/australian-election-2022-labor-wins-as-greens-and-independents-make-major-gains-video-report>.

43. Caitlin Cassidy and Joe Hinchliffe, *Australian Greens Hail ‘Best Result Ever’ With Dramatic Gains in Lower House and Senate*, THE GUARDIAN (May 12, 2022, 10:03), <https://www.theguardian.com/australia-news/2022/may/22/australian-greens-hails-best-result-ever-with-dramatic-gains-in-lower-house-and-senate>.

44. Elias Clure, *Greens Federal Election Success Saw Votes From Liberal, as Well as Labor, Voters*, THE GUARDIAN (July 1, 2022, 4:19 PM), <https://www.abc.net.au/news/2022-07-02/greens-conservative-voters-federal-election-parliament/101200284>.

## Senate Results



Filter by state below for more details.

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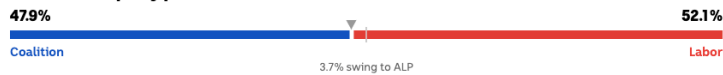
90.4% turnout, final figures

40 of the 76 Senate seats are being decided at this election. The chart below shows the seats that are not up for election, under the 'Continuing' column, along with those each party has won and is likely to win, according to the ABC elections computer.

No seats remain in doubt.

Party	Continuing	Won	Likely
<b>Liberal / National Coalition</b> 32 total seats	17	15	0
<b>Labor Party</b> 26 total seats	11	15	0
<b>The Greens</b> 12 total seats	6	6	0

### National two-party preferred estimate <sup>ⓘ</sup>



Nationwide	Vote count	Vote %	Swing	Seats Won	Changed
<b>Coalition</b>	5,233,334	35.7%	-5.7%	58	-18
<b>Labor</b>	4,776,030	32.6%	-0.8%	77	+8
<b>Greens</b>	1,795,985	12.2%	+1.8%	4	+3
<b>One Nation</b>	727,464	5.0%	+1.9%	0	0
<b>United Australia</b>	604,536	4.1%	+0.7%	0	0
<b>Others</b>	1,521,693	10.4%	+2.1%	12	+7

The Greens have since been able to exercise their new political power in order to influence and pass legislation to ensure it's consistent with their environmentally friendly goals. For example, shortly after the Greens' political wins, the Labor Prime Minister conceded and agreed to rewrite his proposed climate reform to set the target of a 43% reduction of emissions by 2030 as the *minimum*, that could be upgraded over time, in order to win and secure the Greens' votes in the Senate, which was necessary to pass the legislation.<sup>45</sup> The bill passed the Senate, with the support of the twelve Green MPs and one independent.<sup>46</sup> The law sets forth

45. Mike Foley, *Government to Rewrite Climate Bill to Win Over Greens*, THE SYDNEY MORNING HERALD (July 25, 2022, 10:30 PM), <https://www.smh.com.au/politics/federal/government-to-rewrite-climate-bill-to-win-over-greens-20220725-p5b4fn.html>; Sonali Paul, *Australia's Greens Back Climate Law but Vow to Fight Coal, Gas Projects*, REUTERS, (Aug. 3, 2022, 12:45 AM), <https://www.reuters.com/business/sustainable-business/australias-greens-back-climate-law-vow-fight-coal-gas-projects-2022-08-03/>.

46. Joseph Huitson, *Prime Minister Albanese's Landmark Climate Change Bill Legislating Emissions Target of 43 Per Cent by 2030 Passes Senate*, SKY NEWS (Sept. 8, 2022, 3:27 PM), <https://www.skynews.com.au/australia-news/politics/prime-minister-albaneses-landmark->

Australia's greenhouse gas emissions reduction targets of a 43% reduction from 2005 levels by 2030, and net zero by 2050.<sup>47</sup> It additionally requires for the minister to prepare and table an annual climate change statement, and requires the Climate Change Authority to advise the minister in relation to the annual statement and further greenhouse gas emissions reduction targets.<sup>48</sup> It additionally provides for periodic reviews of the operation of the Act.<sup>49</sup>

The Green Party later again provided necessary support to the Labor party, allowing energy price control legislation to pass, which would cap prices on coal and gas.<sup>50</sup> The Greens were prepared to oppose the bill if it included compensation for companies for any revenue loss from the price cap.<sup>51</sup>

Just this past March, the Labor party agreed to an absolute cap on emissions in order to secure the Greens' support for its climate safeguard mechanism bill.<sup>52</sup> The bill targets major polluters, requires big emitters to reduce their emissions intensity by 4.9% a year, and imposes a cap of 1,223m tonnes of carbon dioxide by 2030, which essentially imposes a declining annual limit on absolute emissions of about 140m tonnes.<sup>53</sup>

The success of the Australian Green Party at the federal level is an excellent demonstration of how a legitimately politically powerful Green Party can wield influence to get environmentally protective legislation enacted.

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climate-change-bill-legislating-emissions-target-of-43-per-cent-by-2030-passes-senate/news-story/da557303dfe70b27dbeb13d774b499b9.

47. *Climate Change Act 2022* pts 2-4 (Austl.).

48. *Id.*

49. *Id.*

50. Competition and Consumer (Gas Market Emergency Price) Order 2022 (Austl.); *Australia to Pass Energy Price Cap Law After Greens Signal Support*, REUTERS (Dec. 14, 2022, 1:26AM), <https://www.reuters.com/business/energy/australias-greens-back-govt-legislation-gas-price-caps-2022-12-14/>.

51. *Id.*

52. Paul Karp, *Labor Agrees to Absolute Cap on Emissions to Secure Greens Backing for Safeguard Mechanism Climate Bill*, THE GUARDIAN (Mar. 27, 2023), <https://www.theguardian.com/environment/2023/mar/27/labor-agrees-to-absolute-cap-on-emissions-to-secure-greens-backing-for-safeguard-mechanism-climate-bill>.

53. *Id.*



## ***b. The Role of Green Parties in Ireland in Promoting Climate Friendly Legislation***

Ireland is one of the European countries who recently had a Green Party in a governing coalition, and is another example of a country where a Green Party gain of political power consequently saw success in passing environmentally friendly legislation. Founded in 1981, the party is premised on key ideas concerning the environment like: 1) the impact of society on the environment should not be ecologically disruptive, 2) we have the responsibility, as caretakers of the Earth, to pass it on in a fit and healthy state, and 3) resource conservation is vital to a sustainable society.<sup>54</sup>

### **Where do Green parties hold power?**

European countries with Green parties in a governing coalition



Ireland's 2020 elections yielded the Green Party its best ever general election result, increasing its voting share by 4.4% to 7.1%.<sup>55</sup> The Party won 12 seats in the

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54. *Mission and Principles*, GREEN PARTY, <https://www.greenparty.ie/campaigns/all-campaigns/climate> (last visited Feb. 14, 2023).

55. *Irish Greens Record Best Ever Election Result*, GREEN WORLD (Feb. 11, 2020), <https://greenworld.org.uk/article/irish-greens-record-best-ever-election-result>.

Dáil Éireann, the lower house and principle chamber of the Irish legislature,<sup>56</sup> and improved by 10 seats, having previously only won two.<sup>57</sup>

#### Irish general election 2020 results

Fianna Fáil	38
Sinn Féin	37
Fine Gael	35
Green Party	12
Labour Party	6
Social Democrats	6
Solidarity-People Before Profit	5
Aontú	1
Independents 4 Change	1
Independent	19

Source: BBC



Ireland's Green Party formed a coalition government with the Fine Gael and Fianna Fáil parties, with the two larger parties needing the support of the Green Party to gain a majority in the Irish Parliament.<sup>58</sup> Leader of the Green Party and Minister for, in relevant part, Environment and Climate Eamon Ryan sponsored the Climate Action and Low Carbon Development (Amendment) Bill, signed into law on July 23, 2021.<sup>59</sup> This law sets Ireland on a legally binding path to net-zero emissions by 2050 and a 51% reduction in greenhouse gas emissions by the end of 2030.<sup>60</sup> The law additionally provides for an expanded role of the Climate Change Advisory Council, allowing it to propose carbon budgets to the Minister that match international obligations and the country's own ambitions.<sup>61</sup> Further, the carbon budgets adopted must be consistent with the Paris agreement and other international obligations, and the budgets include all forms of greenhouse gas emissions.<sup>62</sup> The law reaches down to local levels, and requires local authorities to

56. *Id.*

57. *Id.*

58. *Ireland to Form New Government After Green Party Votes for Coalition*, THE GUARDIAN (June 26, 2020), <https://www.theguardian.com/world/2020/jun/26/irish-government-to-be-formed-after-greens-vote-yes-to-coalition>.

59. Press Release, Department of the Environment, Climate and Communications, Ireland's Ambitious Climate Act Signed Into Law (Aug. 30, 2021), <https://www.gov.ie/en/press-release/9336b-irelands-ambitious-climate-act-signed-into-law/>.

60. Climate Action and Low Carbon Development Act 2021 (Act No. 32/2021) ss 9, 16 (Ir.).

61. *Id.*

62. *Id.*

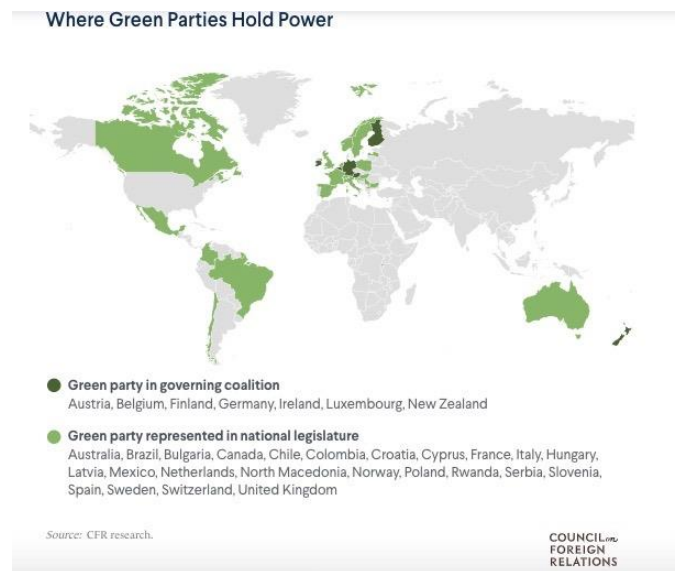


prepare individual Climate Action Plans that include both mitigation and adaption measures, to be updated every five years.<sup>63</sup>

Ireland's Green Party is another demonstration of the legislative environmentally protective consequences a politically powerful Green Party can have.

### ***c. The Role of Green Parties in New Zealand in Passing Climate Friendly Legislation***

New Zealand is another country where the Green Party is in a governing coalition.



Formed in 1990, the Green Party of Aotearoa New Zealand is driven on the ideas that protection of the planet and supporting communities go hand in hand.<sup>64</sup> The Party recognizes the urgency necessary to address climate change, calls for immediate and transformative change, and imposes higher responsibility on New

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63. *Id.*

64. *About, GREEN*, <https://www.greens.org.nz/about> (last visited Mar. 31, 2023). “Aotearoa” is the original name given of New Zealand, named by its indigenous people, the Māori. New Zealand is the anglicized name. *About Aotearoa New Zealand*, UNIVERSITY OF OTAGO, <https://www.otago.ac.nz/about/area/aotearoa.html> (last visited Mar. 31, 2023).

Zealand, a more capable country, to shoulder the burden of reducing emissions and provide climate finance to developing countries.<sup>65</sup>

The Party has been in politics since the 1990s, winning seats as members of the now deregistered Alliance party in the 1993 and 1996 elections, and later won seven Parliament seats in the 1999 election as Green candidates.<sup>66</sup> The Green Party entered the government for the first time in 2017, after agreeing to a confidence and supply agreement with the Labour Party, which saw Green Party leader James Shaw appointed as Minister for Climate Change.<sup>67</sup>

After the Green Party securing positions in government, Party leader James Shaw in his first term introduced the Climate Change Response (Zero Carbon) Amendment Bill, which was ultimately signed into law on November 12, 2019.<sup>68</sup> The law establishes a Climate Change Commission to advise the Government on mitigating and adapting to climate change as well as monitor and review its progress towards emissions reduction and adaptation goals, and sets a target of zero greenhouse gas emissions by 2050 and sets a goal of 10% less than 2017 emissions of biogenic methane by the calendar year beginning in 2030, and a goal of 24-47% less than 2017 emissions by the calendar year beginning 2050.<sup>69</sup> The law additionally requires the Minister to prepare a national adaptation plan, the effectiveness of which the Commission must evaluate and report, to which the Minister must respond.<sup>70</sup>

New Zealand's Green Party saw continued success in the 2020 election, winning 7.9% of the vote, leaving the election with ten seats, and formed a government with the Labour Party, and growing into the largest consistent third party force in New Zealand politics.<sup>71</sup>

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65. *Climate Change Policy*, GREEN, [https://www.greens.org.nz/climate\\_change\\_policy](https://www.greens.org.nz/climate_change_policy) (last visited Mar. 31, 2023).

66. *About Us*, GREEN, <https://www.greens.org.nz/about> (last visited Mar. 31, 2023).

67. Eleanor Ainge Roy, *Jacinda Arden to be New Zealand's Next PM After Labour Coalition Deal*, THE GUARDIAN (Oct. 19, 2017, 7:17), <https://www.theguardian.com/world/2017/oct/19/jacinda-ardern-new-zealand-prime-minister-labour-coalition-deal-winston-peters>.

68. *Bills and Laws*, NEW ZEALAND PARLIAMENT (Mar. 9, 2023), <https://bills.parliament.nz/v/6/98d09205-39c8-4b93-9d3b-12fc5983f556?Tab=history>.

69. Climate Change Response (Zero Carbon) Amendment Act 2019, pts 1A-1C (N.Z.).

70. *Id.*

71. *About Us*, *supra* note 64.





**Overall results – 2020 General Election**

TOTAL VOTES CAST 2,919,086*					
PARTY	PARTY VOTES	% OF VOTES	ELECTORATE SEATS	LIST SEATS	TOTAL SEATS
Labour Party	1,443,546	50.0	46	19	65
National Party	738,275	25.6	23	10	33
Green Party	226,754	7.9	1	9	10
ACT New Zealand	219,030	7.6	1	9	10
Māori Party	33,632	1.2	1	1	2
New Zealand First Party	75,021	2.6	-	-	-

The success of the New Zealand Green Party is another example of the legislative environmental benefits a politically powerful Green Party can bring.

#### ***IV. Legislative Roadblock to Mainstreaming Green Parties in the United States Political Landscape and Its Impact on Climate-friendly Legislation***

The Green Party has not seen recent, relevant success in its attempt to break into United States mainstream politics, and faces barriers such as restrictions in state laws that make it impossible for the party to even get on the ballot and lawsuits from more powerful political parties. A look at the roadblocks it faces indicate that the battle is going and remains hard to predict. This section will discuss the legislative roadblocks, solutions like ranked choice or proportional representation, and the benefits a new system would have: a stronger Green Party with the power to fight for climate change legislation to pass.

##### ***a. Legislative Roadblocks***

It is well-documented that the two-party system is adversarial to third parties.<sup>72</sup> However, third parties also see hurdles in state election laws, which often favor existing parties and create burdens for independent or third party candidates.<sup>73</sup>

In 2010, the Green Party of Arkansas sued Arkansas' Secretary of State, challenging the constitutionality of a state law providing that a political party ceases to exist when it fails to obtain 3% of the total votes cast in a presidential or

72. KRUTZ, *supra*, at 1.

73. *Id.*



gubernatorial election.<sup>74</sup> The Green Party’s 2008 presidential electors had received less than the necessary 3%, meaning the Party could be decertified and then required to obtain the signatures of at least 10,000 Arkansas registered voters to re-gain 2010 ballot status.<sup>75</sup> The Secretary of State’s motion for summary judgment was ultimately granted, when the Court found the burdens on the Party to be not severe, imposed on every party in Arkansas, not just the Green Party, the law to be reasonable and not invidiously discriminatory, and justified by Arkansas’ important interests in being a “good steward of its elections”.<sup>76</sup>

In 2014, the Green Party of Arizona sued the Arizona Secretary of State challenging the constitutionality of an Arizona election statute which mandated a party to have filed a new party petition 180 days before the primary election.<sup>77</sup> The Party had last qualified for ballot recognition in 2010, and in relevant part, a statute amendment allowed for the Party’s ballot representation to be extended through the 2012 election cycle based on its 2010 recognition.<sup>78</sup> However, Green Party members failed to cast the statutory required 5% total votes in 2010, and failed to establish the statutory required amount of voters in 2013 to remain on the 2014 ballot, meaning the Party lost its recognized status and needed to file a petition with the Secretary of 23,401 signatures to meet statutory guidelines within 180 days before the primary.<sup>79</sup> The Green Party failed to do so.<sup>80</sup> The Secretary’s motion for summary judgment was ultimately granted, with the Court finding that Arizona’s Green Party did not demonstrate that the statute imposes a severe burden, let alone any particular hardship on Green Party supporters or other minor parties, nor did it demonstrate that the 180 day deadline has no rational basis.<sup>81</sup> The Court found no evidence that the impositions of the deadline were unnecessary, excessive, or discriminatory.<sup>82</sup>

Further, third parties are often seen as “spoilers” for mainstream parties.<sup>83</sup> “Spoilers” are candidates who have no real chance of winning but their presence on

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74. *Green Party of Ark. v. Daniels*, 2010 U.S. Dist. LEXIS 163568 at \*1 (E.D. Ark. 2010).

75. *Id.*

76. *Green party of Ark. v. Daniels*, 733 F. Supp. 2d (E.D. Ark. 2010).

77. *Ariz. Green Party v. Bennett*, 20 F. Supp. 3d 740 (D. Ariz. 2014).

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

83. Kevin Liptak, “*Fatally Flawed*”: *Why Third Parties Still Fail Despite Voter Anger*, CNN (May 21, 2012, 10:57 AM), <https://www.cnn.com/2012/05/21/politics/third-party-fail/index.html>.



the ballot still affects the election outcome.<sup>84</sup> It's a term that has been thrown at the Green Party and its candidates before, like Ralph Nader in 2000 and Jill Stein in 2016.<sup>85</sup>

The mainstream political party likely the most at risk of losing voters if a Green Party were to become powerful is the Democratic Party. The Democratic Party has advanced lawsuits against the Green Party spanning across years and states. Back in 2018, the Montana Democratic Party sued to block the Green Party from appearing on the 2018 U.S. House and Senate election ballots alleging 180 incorrectly certified signatures and requested those to be thrown out—which would leave the Green Party without enough signatures to get on the ballot.<sup>86</sup> The announcement that the Green Party would appear on Montana's ballots was viewed as creating a potential vulnerability to the Democratic Party's left leaning voters, as the Green Party's platform is the kind that could attract would-be Democratic voters if they have the option to vote for a Green Party.<sup>87</sup>

In 2020, state and national Texas Democrats successfully sued to keep Green Party candidates off the November ballot for the U.S. Senate, railroad commissioner, and the 21<sup>st</sup> Congressional District.<sup>88</sup> Texas Democrats targeted Green Party candidates largely because they did not pay filing fees under a new requirement for third parties, to which Green Party admitted to mostly withholding while they wait for the results of litigation challenging the new law.<sup>89</sup> The Green Party argued the filing fees are an unconstitutional burden, and go towards primaries, which the Green Party does not conduct.<sup>90</sup>

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84. *Spoiler*, POLITICAL DICTIONARY (last visited April 2, 2023), <https://politicaldictionary.com/words/spoiler/>.

85. KRUTZ, *supra*, at 1; Alex Thompson and Holly Otterbein, *Jill Stein Cost Hillary Dearly in 2016. Democrats Are Still Writing Off Her Successor.*, POLITICO (June 20, 2020, 7:00 AM), <https://www.politico.com/news/2020/06/20/democrats-shrug-off-potential-green-party-spoiler-in-2020-329170>.

86. Corin Cates-Carney, *Montana Democrats Sue to Block Green Party From Ballots*, MONTANA PUBLIC RADIO, (April 3, 2018, 5:44 PM) <https://www.mtpr.org/montana-news/2018-04-03/montana-democrats-sue-to-block-green-party-from-ballots>.

87. *Id.*

88. Patrick Svitek, *Texas Democrats Are Successfully Suing to Kick Green Party Candidates Off the November Ballot*, THE TEXAS TRIBUNE, (Aug. 19, 2020), <https://www.texastribune.org/2020/08/19/texas-democrats-green-party-november/>.

89. *Id.*

90. *Id.*



Likewise, throughout 2022, North Carolina Democrats were locked in back and forth legal battles with the North Carolina Green Party. The North Carolina Green Party sued the state Board of Elections after the board, controlled by Democrats, rejected the party's petition to appear on the ballot in a 3-2 vote because of an investigation that called into question the validity of signatures after the county boards had validated enough signatures for the Green Party surpass the signature requirement.<sup>91</sup> The lawsuit also alleges that the Democratic Party interfered with the Green's petition campaign; the Democratic Senatorial Campaign Committee acknowledged that it had contacted signatories on the Green Party's petition to request they retract their signatures, telling signatories the Green Party could spoil efforts for other Democrats and give Republicans a huge advantage.<sup>92</sup> About a month later, North Carolina Democrats sued to have the board vote overturned after the elections board certified the Green Party while the investigation into its petition signatures was still pending, asking a state court to prohibit the board from recognizing the Green Party until the investigation is completed candidates from an "invalidly recognized political party would directly harm Democrats' electoral prospects".<sup>93</sup> In a last ditch effort, the North Carolina Democrats asked the 4<sup>th</sup> Circuit Court of Appeals to block a lower court order that prohibited the state elections board from enforcing a filing deadline that would keep the Green Party Senate candidate off the November ballot, in part, because of the Democrats' own role in delaying the Green Party's ballot consideration; the 4<sup>th</sup> Circuit Court of Appeals denied the request.<sup>94</sup>

***b. The Positive Impact a Green Party Would Have on Passing Climate-Friendly Legislation***

As demonstrated by countries like Australia, Ireland, and New Zealand, when a Green Party has legitimate political power, it can use that political power to introduce, support, and see environmentally friendly proposed legislation become

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91. Steve Harrison, *North Carolina's Green Party Says Democrats Are Working to Keep It Off 2022 ballot*, NPR, (July 15, 2022, 5:00 AM) <https://www.npr.org/2022/07/15/1111598878/north-carolina-green-party-petition-signatures-hoh-beasley>.

92. Hannah Schoenbaum, *Green Party Sues NC Elections Board Over Petition Rejection*, AP NEWS, (July 14, 2022), <https://apnews.com/article/2022-midterm-elections-lawsuits-voting-government-and-politics-935becbe8aee9d109284e2207d7172ad>.

93. *Id.*

94. The Associated Press, *Court Rejects Democrat Appeal to Keep Green Party Off Ballot*, WSOC-TV, (Aug 11, 2022, 8:56 PM) <https://www.wsoc.com/news/local/court-rejects-democrat-appeal-keep-green-party-off-ballot/3XAB4GDOJRHJZIDPEOMUVCKHOY/>.



law. Additionally, if the United States had a system where third parties were a mainstream player, it's possible that could encourage coalition governments, or even a situation where the Democrats would need to form coalitions with the Green Party, like in Australia, where the “major” party still needed the support of the Green Party because it did not have enough seats to capture a majority in Parliament. In such situations, the Green Party would be able to wield its influence and power to ensure legislation concerning climate is crafted to reflect the goals desired by the party and contain the necessary environmental protections, because the legislation would not pass without its support. Such situations would put the Green Party closer to equal footing with the “major” parties, where the Green Party could gain concessions from the major party when legislation concerning the environment is being crafted.

Further, it is clear that the Green Party more accurately captures voters' interests than just the two mainstream political parties, as the lawsuits from the Democratic Party reveal. There are citizens who vote for and support the Green Party, but the winner takes all type of electoral systems that require a majority or plurality used in the United States just aren't conducive to a successful third party, and voters are scared to waste their votes and have the party they like the least end up winning, even if they support and align with the third party more.<sup>95</sup> Adopting either proportional representation, where legislative seats are based on the proportion of votes each party receives,<sup>96</sup> or ranked choice voting, where voters rank available candidates in order of preference and their vote is not thrown away if their top candidate does not win, would open our elections to allow third parties, and thus a Green Party, into our political process.<sup>97</sup>

## ***V. Conclusion***

Political parties play a role in shaping legislation, but the two party system in the United States leads to voter disenfranchisement, voter dissolution, and an inability for third parties that more accurately represent voters' views to win. The Green Party is an example of a third party that has struggled to gain mainstream political power in the United States, but has seen success overseas. As seen in international politics, where Green Parties fare more successfully in friendly political systems, a stronger Green Party that is a mainstream political player

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95. KRUTZ, *supra*, at 1.

96. *Id.*

97. *Ranked Choice Voting*, FairVote, <https://fairvote.org/our-reforms/ranked-choice-voting/> (last visited April 2, 2023).



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would be consequential to green politics and the passing of climate-friendly legislation.

