

## Top lawyers defy bar to declare they will not prosecute peaceful climate protesters

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2 Leading barristers have defied bar rules by signing a declaration saying they will not prosecute peaceful climate protesters or act for companies pursuing fossil fuel projects.

4 They are among more than 120 mostly English lawyers who have signed a declaration vowing to  
6 “withhold [their] services in respect of supporting new fossil fuel projects and action against climate protesters exercising their right of peaceful protest”.

8 Noting that climate breakdown represents “a serious risk to the rule of law”, the so-called “declaration of conscience” calls on legal professionals “to act urgently to do whatever they can to address the causes and consequences of the climate and ecological crises and to advance a just transition”.

10 Writing in the Guardian, Jolyon Maugham KC, the head of the Good Law Project and a key signatory of the declaration, says: “Like big tobacco, the fossil fuel industry has known for decades what its activities  
12 mean. They mean the loss of human life and property – which the civil law should prevent but does not.

14 “The scientific evidence is that global heating, the natural and inevitable consequence of its actions, will cause the deaths of huge numbers of people. The criminal law should punish this but it does not.  
16 Nor does the law recognise a crime of ecocide to deter the destruction of the planet. The law works for the fossil fuel industry – but it does not work for us.”

18 Eighteen barristers, including six king’s counsel, have signed the declaration. They will now self-refer to the Bar Standards Board for breaking the profession’s “cab rank” rule, which specifies that a barrister  
20 must take a case they are qualified for, provided they are available to do so.

22 On Friday they were accused of undermining a key principle of the legal system: that everyone is entitled fair and impartial legal representation.

24 Nick Vineall KC, the chair of the Bar Council of England and Wales, said: “The cab rank rule prevents discrimination and improves access to justice. It means that barristers sometimes have to represent people they disapprove of or disagree with. But the flip side is that clients can have the barrister they  
26 choose. It is for judges or juries to decide who is right and who is wrong, not barristers. Should a barrister be allowed to refuse to defend a climate change activist because they happen to disagree with  
28 that activist’s style of protest?

30 Barristers found to be in violation of the rules can receive fines. But the consequences can be more far-reaching for junior members of the profession, who can find themselves blocked from receiving the “silk” awarded to king’s counsel, or from promotion to the judiciary.

32 One junior lawyer, who wished to remain anonymous, said: “Young lawyers are being placed in an impossible position. We’re being told by our firms and regulators it’s a professional obligation to act  
34 for fossil fuel projects, knowing that doing so will poison our own future and all of life on Earth. That’s wrong on every level. It’s indefensible. If the profession doesn’t look out for my generation, how does  
36 it expect to survive?”

38 Tim Crosland, the director of the environmental law pressure group Plan B, which together with Maugham’s Good Law Project coordinated the declaration, said “behind every new oil and gas deal sits a lawyer getting rich”.

- 40 “Meanwhile, it’s the ordinary people of this country, taking a stand against this greed and destruction  
42 that the British legal system prosecutes and imprisons, jailing them just for talking about the climate  
crisis and fuel poverty. The rule of law has been turned on its head. Lawyers are responsible. It’s time  
to take a stand.”

## Summary

### **Who – Where – What?**

- Top or leading barristers / England and Wales / they signed a declaration of conscience  
committing to
- refusing to prosecute peaceful climate protesters
  - refusing to act for companies pursuing fossil fuel projects

### **Reasons for such a declaration?**

--→ climate emergency = climate breakdown: the scientific evidence is that global heating and natural consequences are caused by the fossil fuel industry and lawyers (closing deals for them) both responsible for causing many deaths and for the loss of property while posing a serious risk to the rule of law. Civil law and criminal law = ineffective

### **Implications of such a declaration for barristers?**

--→ those lawyers break the “cab rank” rule which means they can choose to refuse some cases  
CONSQ: undermining legal principle that everyone is entitled fair and impartial legal representation.

Pros and cons of cab rank rule: it prevents discrimination and improves legal representation BUT clients can have the barrister they choose.

-→ they can receive fines

--→ young lawyers are being placed a tricky position facing the professional obligation to act for fossil fuel projects knowing that it will make climate change worse.

## Commentary

### **1 - A symbolic action?**

-→ “Cab rank” rule is a myth = Barristers do not really have such an obligation = easy to break by simply saying “they are too busy” or they do not have the required expertise for the case. SO they do not take considerable risks in claiming they won’t take cases involving climate activists. if a barrister does not want to do a case they will not do it, but if you pay them enough they will want to do it.

-→ fossil fuel industry is a powerful political and economic force

--→ junior members of the profession do not actually have a choice if they want to go up the legal profession ladder.

--→ Is it not a fight (in disguise) for another cause? = against new restrictions on the right to protest?

Title and line 1 : “not prosecute peaceful climate protesters” = does that mean that non-violent protests / demonstrations are banned in the UK? ---→ no *but Police, Crime, Sentencing and Courts Act 2022*, Part 3 of the Act gives police forces broad authority to place restrictions on protests and public assembly. Freedom of expression is threatened.

## **2 - Line 26-27: “Should a barrister be allowed to refuse to defend a climate change activist?”**

It is precisely their job: defending someone because they did something wrong. A barrister who refuses to defend someone because of what they are accused of may sound contradictory even unethical.

Should barristers defend innocent people only? What about war crimes?

### **HOWEVER :**

Sometimes the law is wrong. What it stands for is the opposite of justice. In the past the law / justice allowed racism, murder and so on... (Jim Crow laws...). Tomorrow it might be said that today’s laws did not do enough to protect the planet enabling the destruction of our planet and the displacement of billions of people.

## **3 – The law is ineffective against the fossil fuel industry**

The law works for the fossil fuel industry = that means that the law and this industry have convergent/ shared interests = money regardless of the harm that might be done to the planet.

Civil and criminal law are powerless = the fossil fuel industry seems to operate beyond the legal sphere with no accountability whatsoever. Why? David vs Goliath cases. Individuals’ cases are seldom successful against the oil companies.

Who else can be sued or prosecuted then? The state? The Gvt? (for inaction or wrong decisions)