Supreme shock: Has US court holed Paris climate deal?

Matt McGrath

Environment correspondent

3 hours ago

From the section

Science & Environment 32COmments



Have five elderly, conservative Americans stalled what President Obama called the "best chance we have to save the one planet we've got"?

Despite all the noise from those stumping for Trump and feeling the burn for Bernie, the decision by a majority of the nine men and women who make up the US Supreme Court to **temporarily halt** President Obama's Clean Power Plan, may have significant implications for the world beyond New Hampshire and the other 49 states.

The Supreme Court's decision to issue **a stay** to a coalition of Republican states, coal industry and mining groups came as a massive shock to all sides.

"It is such a nakedly partisan, unprecedented type of action," said Paul Bledsoe, a White House climate adviser under President Clinton.

"It is redolent of this hyper-partisanship that the US is suffering from, and the fact that it has seeped into the most objective branch of government is just remarkable." Despite the assertion by the White House that this was merely a legal "bump in the road", no one really knows quite how things will now play out.

Deadlines and delays

Those opposed to the Plan argued that it represented a massive overextension of the President's executive authority at the expense of State's rights.

The Supreme Court indicated that they wanted this issue to be resolved legally before the other elements of the Plan could be put into practice.

This is bad news for the Plan on two counts.

It is due to start in 2022, but states were supposed to submit their carbon cutting plans by this September.

That deadline will now be missed as this legal issue is not likely to be resolved before the end of next year.

The second and more important point from Mr Obama's perspective is that by granting the stay, the Supreme Court is hinting strongly it has issues with the whole Plan.

"The stay is a signal that the Supreme Court has serious concerns with the power plan," said Mike Duncan, president of American's for Clean Coal Electricity.
"We're optimistic the power plan will ultimately be rejected."

If that happens it could be bad news for the Paris process.

"It casts an enormous shadow on the commitment's the US made in Paris," said Bruce Huber, a law professor at the University of Notre Dame.



"There is an election coming up and there is a possibility that the incoming president wouldn't take the commitment as seriously as President Obama has, this merely adds further cause for concern for those who are worried about climate change."

The question is could the key strength of the Paris agreement become its

weakness?

Paris ultimately worked because countries could decide for themselves how they would tackle emissions of carbon dioxide.

These "nationally determined plans" struck a careful balance between sovereignty and peer pressure.

So if Ethiopia could promise to cut emissions by 64% by 2030, in a place where three quarters of the population don't have electricity - surely the likes of Germany or South Korea or Mexico could do something similar.

Who knew that embarrassment was such a powerful diplomatic tool?

But if the Supreme Court ultimately throws out the Clean Power Plan, the US would struggle to honour its commitment to cut emissions by 32% of their 2005 levels by 2030.

How would this impact on other countries pledges?

"It is going to represent a chipping away at the ability of the international community to wield the moral high ground with actors that might not have as much innate desire to be on the leading edge of greenhouse gas reduction," said Prof Huber. "It exposes the weaknesses that are there."

Ideological issue

For now, other observers are downplaying the Supreme Court action as a little, local difficulty.

"America would be hurting itself, and the rest of the world, if it allowed the dying kicks of the fossil fuel lobby to hold it back from being at the forefront of this transition," said Mohamed Adow from Christian Aid.

"The Paris agreement is resilient and will withstand this little legal bump as the world inevitably shifts to safer cleaner future."

More than anything the stay once again shows how much of an ideological issue climate change in the US has become.

Every liberal on the court voted against the stay. Every conservative supported it. However despite the depth of this division, it is still too early to say how or even if the Supreme's decision will impact Paris.

The issue won't be resolved when global leaders gather in New York to sign the Paris Climate Agreement in April.

To ratify the deal, 55 countries that account for at least 55% of global emissions need to sign the document.

But signing and implementing are different things.

If the US elects a republican president for whom climate change is not a priority while the Supreme Court derails a key climate policy, what will the rest of the world do?

The Kyoto Protocol comes to mind.

This was the world's previous attempt to restrict carbon, which the US signed but ultimately rejected.

Is history now repeating itself? Stay tuned.

Obama climate initiative: Supreme

Court calls halt

By Matt McGrath Environment correspondent

2 hours ago

From the section

Science & Environment



President Barack Obama's plans to regulate emissions of carbon dioxide from US power plants have been stalled by the US Supreme Court.

The court ruled that the president's Clean Power Plan could not go forward until all legal challenges were heard.

Designed to cut US emissions by 32% by 2030, the scheme put huge emphasis on a shift to renewable energy.

It formed the key element of the US pledge at UN climate negotiations held in Paris in December last year.

Introduced by the president last August, the **plan set carbon reduction goals for each state** and it was up to the states themselves to come up with proposals to meet those goals.

A group of 27 states, utilities and coal miners sought to block the proposal in the courts. They argued that the plan was an infringement on states' rights.

An initial attempt to halt the implementation of the plan until legal challenges were heard was thrown out by a US appeals court in Washington in January.

However the Supreme Court voted 5-4 to suspend the plan pending the outcome of the litigation.

White House 'disagrees' with ruling

White House spokesman Josh Earnest **put out a statement** following the decision: "We disagree with the Supreme Court's decision to stay the Clean Power Plan while litigation proceeds.

"The Clean Power Plan is based on a strong legal and technical foundation, gives states the time and flexibility they need to develop tailored, cost-effective plans to reduce their emissions, and will deliver better air quality, improved public health, clean energy investment and jobs across the country, and major progress in our efforts to confront the risks posed by climate change.

"We remain confident that we will prevail on the merits."

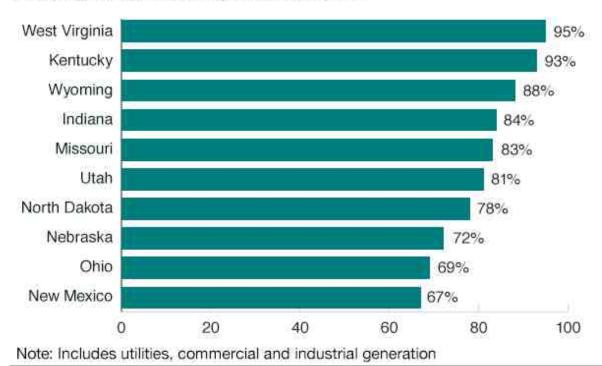
The ruling could have significant implications for the president's attempt to cut down on carbon.

Under the Clean Power Plan, individual states were due to submit their proposals on how to meet the CO2 restrictions by September this year. That date will be missed.

It is unlikely that all the legal questions over the future of the Clean Power Plan will be resolved before President Obama leaves office next January.

Most coal dependent states

Percentage of electric power generated using coal



Source: Energy Information Administration

West Virginia's Attorney General Patrick Morrisey called the high court's action a "great victory".

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"We are thrilled that the Supreme Court realized the rule's immediate impact and froze its implementation, protecting workers and saving countless dollars as our

fight against its legality continues," he said in a statement.

Supporters of the Clean Power Plan were confident that the courts would ultimately upheld its legality.

"The electricity sector has embarked on an unstoppable shift from its high-pollution, dirty-fuelled past to a safer, cleaner-powered future, and the stay cannot reverse that trend," said David Doniger, from the Natural Resources Defense Council.

"Nor can it dampen the overwhelming public support for action on climate change and clean energy."

The ruling will be seen as a major embarrassment for President Obama, who helped craft a new global agreement on climate change at UN sponsored talks in Paris in December.

What will worry the White House more is the division of the court along ideological lines, with conservative justices all supporting the stay while the liberal justices opposed.

If these divisions hold, the Clean Power Plan may suffer further setbacks in the Supreme Court which may ultimately render it useless.

If that was to happen, the ability of the US to live up to its commitments under the Paris Climate Agreement would be in serious doubt.

Follow Matt on Twitter @mattmcgrathbbc.

Antonin Scalia, conservative US Supreme Court justice, dies

7 hours ago
From the section
US & Canada



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Image caption

Justice Scalia was the first Italian American to serve on the high court

One of the most conservative members of the US Supreme Court, Antonin Scalia, has died.

Justice Scalia's death could shift the balance of power on the US high court, allowing President Barack Obama to add a fifth liberal justice to the bench. The court's conservative 5-4 majority has recently stalled major efforts by the Obama administration on climate change and immigration.

Justice Scalia, 79, was appointed by President Ronald Reagan in 1986.

He died in his sleep early on Saturday while in West Texas for hunting trip, the US Marshalls Service said.

"For almost 30 years, Justice Scalia was a larger-than-life presence on the bench," President Obama said, calling him "an extraordinary judicial thinker" with "an incisive wit".

Justice Scalia's biting wit

What next for the Supreme Court?



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Justice Scalia was appointed by Ronald Reagan

The president said he intends to name a replacement in due time, despite calls from Republicans to wait until the next president is elected.

"There will be plenty of time for me to do so and for the Senate to fulfil its responsibility to give that person a fair hearing and a timely vote," Mr Obama said. "He was an extraordinary individual and jurist, admired and treasured by his colleagues," Chief Justice John Roberts said in a statement. "His passing is a great loss to the court and the country he so loyally served."

Born in 1936 in Trenton, New Jersey, Justice Scalia was the first Italian American to serve on the high court.

He was one of the most prominent proponents of "originalism" - a conservative legal philosophy that believes the US Constitution has a fixed meaning and does not change with the times.

In 2008, Justice Scalia delivered the opinion in District of Columbia v Heller, a landmark case that affirmed an individual's right to possess a handgun.

Throughout his career, the outspoken justice has been a vocal opponent of abortion and gay rights, often writing scathing dissenting opinions.





In the majority, he supported business interests and was a strong advocate for the death penalty, but he often parted with his conservative colleagues on issues of free speech.

He was known for his sense of humour and colourful language, calling efforts to defend President Obama's healthcare reform law "jiggery-pokery" and "pure applesauce".

Justice Scalia was an avid questioner during the court's oral arguments and has been credited with livening up proceedings.

His biting legal opinions and colourful persona made him a celebrity in conservative legal circles and, to a lesser extent, among the general public.

Politics turned on its head: Anthony Zurcher, BBC News North America reporter

The death of Antonin Scalia has turned the US presidential race, and Washington politics, on its head.

The ability of a president to shape the Supreme Court for years if not decades has been an important consideration for many voters in US presidential campaigns - but it is usually an abstract concern. With the passing of conservative firebrand Scalia, that is no longer the case.

Republicans in the US Senate will do everything they can to prevent Barack Obama, who has fewer than 11 months left in his presidency, from naming a successor to a court that had been sharply divided between liberals and conservatives.

If they succeed, a Democratic victory in November would mean a court with a

decidedly more liberal bent. If Republicans prevail they preserve their slender conservative majority on a court that regularly issues landmark decisions on issues like gay rights, immigration law, healthcare reform, campaign finance reform and civil liberties.

Even if Mr Obama gets a nominee confirmed, the power his successor will hold to appoint justices is clear - three of the eight remaining justices are over the age of 70.

What next for the Supreme Court? Meet the Supremes

Justice Scalia was the subject of a one-act play and the focus of an opera along with his friend and colleague liberal Justice Ruth Bader Ginsburg.

The appointment of Justice Scalia's successor is certain to become a major issue in the presidential race, with stark divisions emerging over whether he or she should be nominated by this president or the next.

Senate Majority Leader Mitch McConnell, a Kentucky Republican, said on Saturday that the new justice should be selected after the presidential election.

"The American people should have a voice in the selection of their next Supreme Court Justice," he said.

His stance was echoed by Republican presidential candidates including senators Ted Cruz and Marco Rubio.

Senator Harry Reid, the top Democrat in the chamber, called the move to delay the confirmation "unprecedented".

"The Republicans in the Senate and on the campaign trail who are calling for Justice Scalia's seat to remain vacant dishonour our constitution," Democratic presidential candidate Hillary Clinton said. "The Senate has a constitutional responsibility here that it cannot abdicate for partisan political reasons." The Supreme Court will continue to hear cases during the current term, with or without a replacement, including a major case involving abortion rights.



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Image caption

Justice Scalia (front row, second from left) was one of five justices that made up the conservative majority on the court

US Supreme Court justices are appointed to life terms by the president with the approval of the US Senate.

The length of their terms along with their influence on US politics makes their selection and confirmation hotly debated.

Appointed by Democratic presidents, associate justices Mrs Ginsburg, 82, Sonia Sotomayor, 61, Stephen Breyer, 77, and Elena Kagan, 55, make up the court's liberal wing.

Appointed by Republican presidents, Chief Justice John Roberts, 61, along with justices Clarence Thomas, 67, Anthony Kennedy, 79, and Samuel Alito, 65, are the court's conservative bloc.