

ALLE MACHT DEN RICHTERN? DIE NEUE ROLLE DES RECHTS IN DER WELTUMWELTPOLITIK

Webinar Deutsch-Niederländische
Juristenkonferenz
1. Oktober 2021



ALS PRIVATE VORSTELLUNG

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Seit 2003 Professor in den Niederlanden, erst
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Lehrstuhl: Globale Nachhaltigkeitspolitik



I. WILLKOMMEN IM ANTHROPOZÄN



DIE NEUE HERAUSFORDERUNG FÜR DAS RECHT

“The Earth System has moved well outside the range of the natural variability exhibited over the last half million years at least. ...

Human activities could ... trigger severe consequences for Earth’s environment ...

potentially switching the Earth System to alternative modes of operation that may prove irreversible and less hospitable to humans.”

2001 Amsterdam Declaration of the International Geosphere-Biosphere Programme

DAS ENDE DER NATUR

In den Sozial- und Geisteswissenschaften herrscht ein neuer Diskurs über das *Ende der Natur* und das *Ende der Umwelt*.

Die alten binären Systeme von Mensch-Umwelt bzw. Mensch-Natur sind verfallen.

Es gäbe keine Natur und keine Umwelt mehr – zumindest nicht mehr in einem intersubjektiv verständlichen Sinne.

Was bedeutet dies für das Umweltrecht?

Research Article

The future of 'environmental' policy in the Anthropocene: time for a paradigm shift

Frank Biermann

Published online: 22 Nov 2020

Download citation

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ABSTRACT

What is the future of 'environmental' policy in times of earth system transformations and the recognition of the 'Anthropocene' as a new epoch in planetary history? I argue that fifty years after the 1972 Stockholm Conference on the Human Environment, we need to revisit the 'environmental policy' paradigm because it falls short on five grounds. The paradigm (a) emphasizes a dichotomy of 'humans' and 'nature' that is no longer defensible; (b) is incompatible with more integrated research concepts that have overcome this human-environment dichotomy; (c) deemphasizes questions of planetary justice and democracy; (d) fails to deal with novel normative challenges of the Anthropocene; and (e) may risk political marginalization of central concerns of human and non-human survival. In the second part I discuss institutional implications, arguing for novel approaches in science collaboration, new institutional arrangements and a more central place for questions of planetary justice and earth-system risks in governance.

KEYWORDS: Environmental policy, earth system governance, Anthropocene, environmentalism, socio-ecological systems, nature conservation

EARTH SYSTEM LAW



People, Places, and the Planet

Earth System Governance

Research Article

ANTHROPOCENE
REVIEW

**Taming Gaia 2.0: Earth system law
in the ruptured Anthropocene**

The Anthropocene Review
3(4)
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DOI: 10.1177/2046162121104633
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SAGE

Rakhyun E Kim

Abstract
If the Anthropocene is a rupture in planetary history, what does it mean for international environmental law? When the Earth System crosses irreversible tipping points and begins a forcible, nonlinear transformation into a hostile state which I call the ruptured Anthropocene, the concept of protecting the global environment from human would lose its meaning. Not only the dichotomy between humans and nature becomes irrelevant, but the environment itself will no longer exist as an object for protection. I argue that, for international environmental law to stay relevant in the ruptured Anthropocene, it needs to shift away from its traditional focus on



Taskforce on Earth System Law

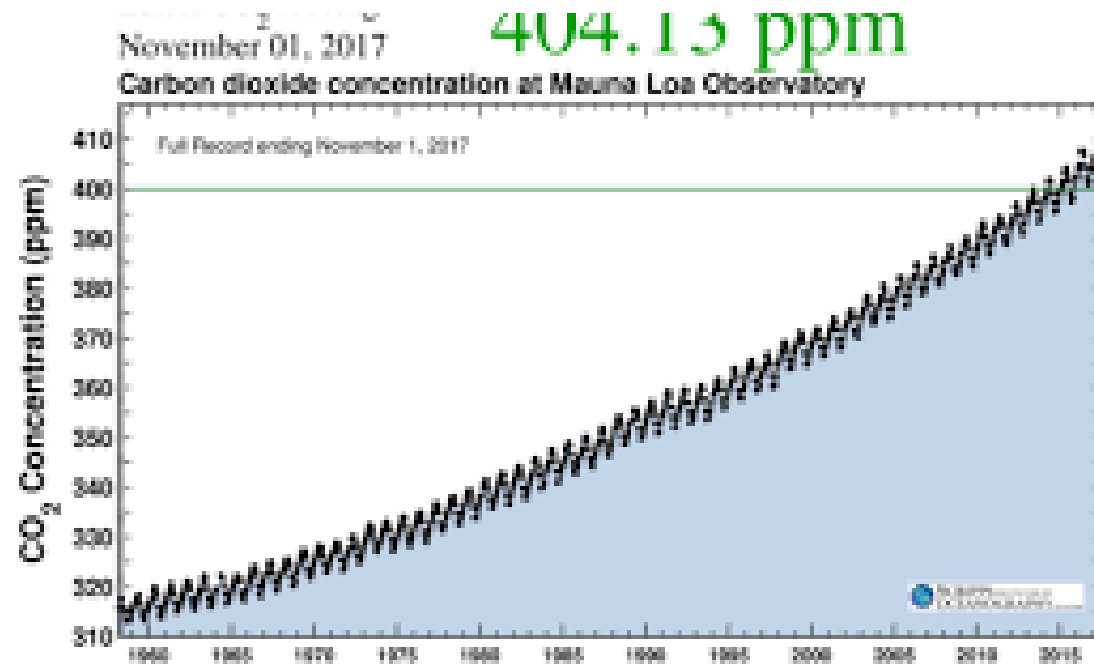
Earth System
Governance
Speaker Series

System Law as a Legal gm for the Anthropocene

with Prof. Louis Kotzé, Dr. Rakhyun E. Kim, Laura May,
Emily Webster and Dr. Marie Petersmann

February 4th at 16:00 UTC +1
Register for Zoom Invitation

DER LANGSAME MARSCH DER KLIMAPOLITIK



1988 VN-Vollversammlung:
*Climate as Common Concern of
Humankind*

1992 VN-
Rahmenübereinkommen
Klimawandel

1997 Kioto-Protokoll

2015 Paris-Abkommen

2021 Glasgow-
Vertragsstaatenkonferenz

DIE NEUE ROLLE DER RICHTER



DIE HERAUSFORDERUNG FÜR DIE DEMOKRATIE

Die neue Rolle der Richter in der Klimapolitik und, allgemeiner, in der Weltumweltpolitik bringt wichtige, neue Impulse für eine der politischen Kernfragen des 21. Jahrhunderts.

Die neue Rolle der Richter wirft aber auch unzählige neue Fragen auf – vor allem mit Blick auf die Demokratie.

II. RECHTSPRECHUNG UND „WISSENSCHAFT“

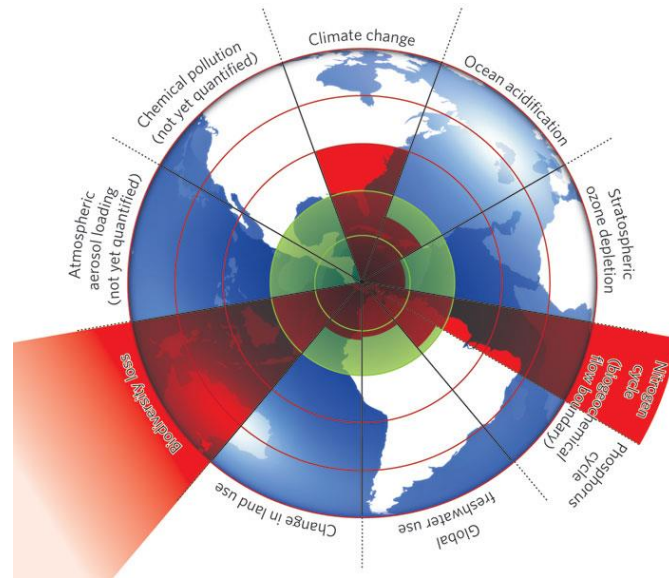
WISSENSCHAFTLICHE UNSICHERHEITEN

Klimarechtsprechung benötigt Klimawissenschaft.

Aber das Klimasystem ist hochkomplex, im Detail umstritten, und Wissenschaft ist immer nur vorläufig.

Welche Wissenschaft liegt der Rechtsprechung zugrunde?

BEISPIEL: DIE PLANETAREN GRENZEN



Annual Review of Environment and Resources

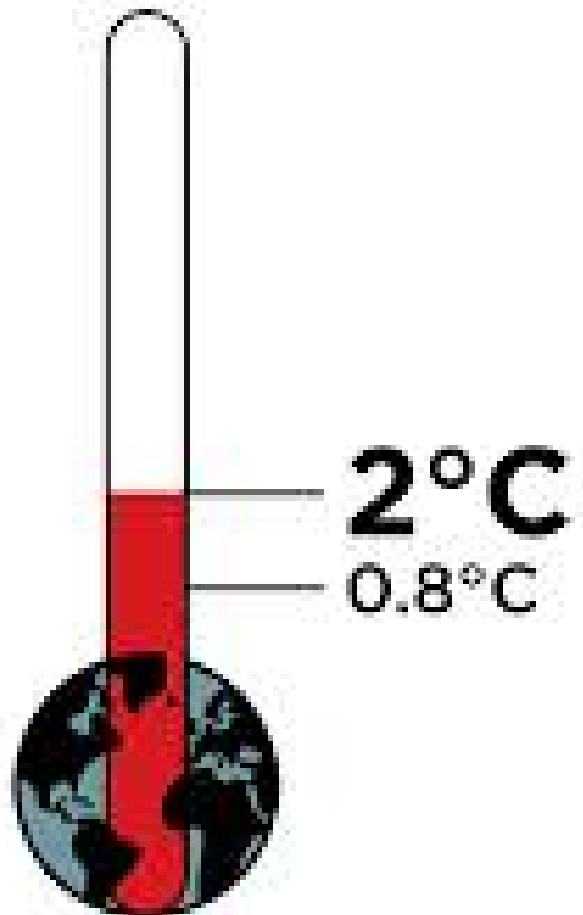
The Boundaries of the
Planetary Boundary
Framework: A Critical
Appraisal of Approaches to
Define a “Safe Operating
Space” for Humanity

Frank Biermann and Rakhyun E. Kim

Copernicus Institute of Sustainable Development, Utrecht University, 3584 CB Utrecht,
The Netherlands; email: f.biermann@uu.nl, r.kim@uu.nl

Rockström et al., *Nature*, 2009

CONTESTED GOALS: E.G., MAX. 2 DEGREE GLOBAL WARMING



**NEW INTEGRATIVE
APPROACH:
17 “SUSTAINABLE
DEVELOPMENT GOALS” WITH
169 TARGETS, ALL TO BE
ACHIEVED BY 2030**



DIE NEUE NACHHALTIGKEITSWISSENSCHAFT

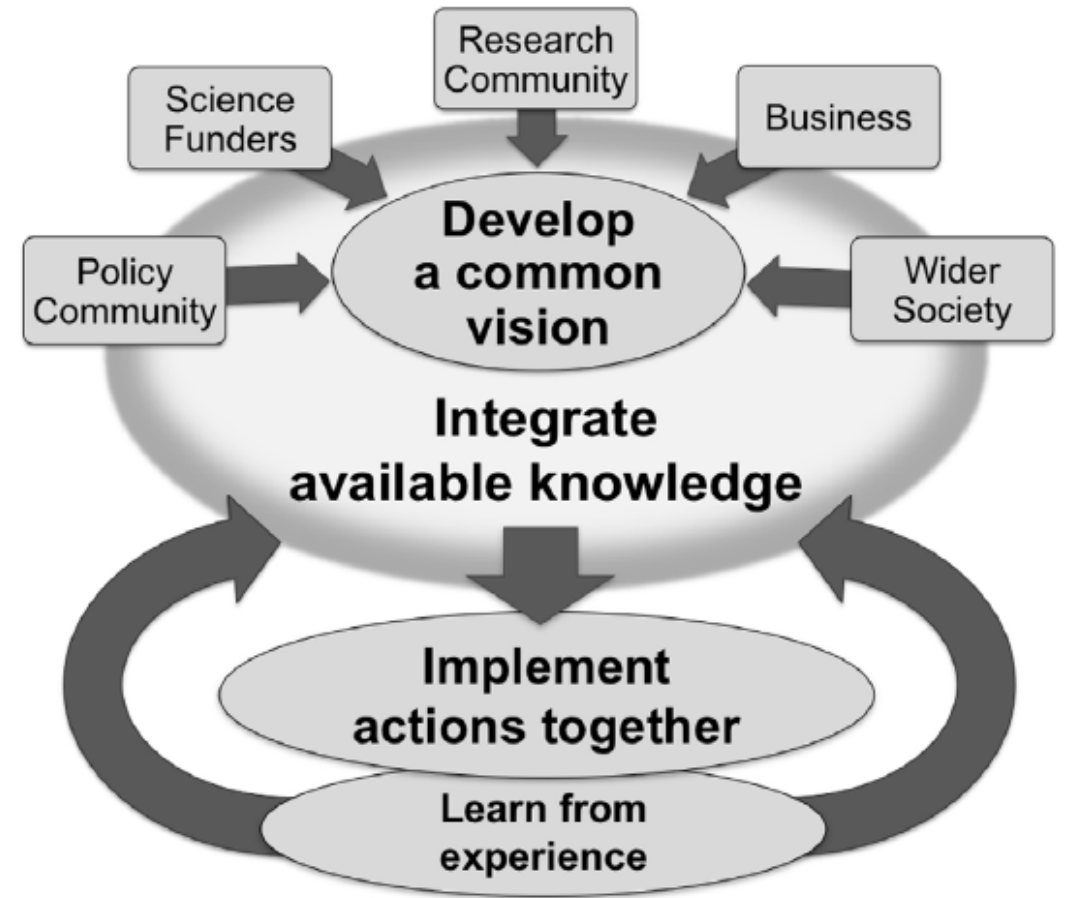
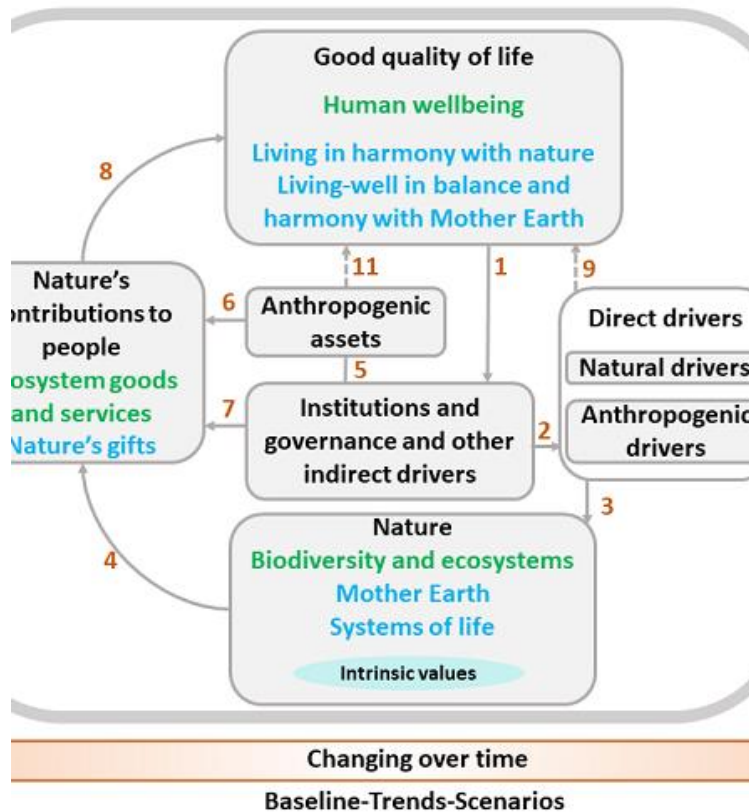


Fig. 1 – The knowledge arena: sustainability science as a collective learning process.



WAS IST WISSENSCHAFT? DAS BEISPIEL IBPES

DECOLONIZING SUSTAINABILITY SCIENCE

The authority of science in sustainability governance: A structured comparison of six science institutions engaged with the Sustainable Development Goals

Sandra van der Hel*, Frank Biermann



PERGAMON

Global Environmental Change 11 (2001) 297–309

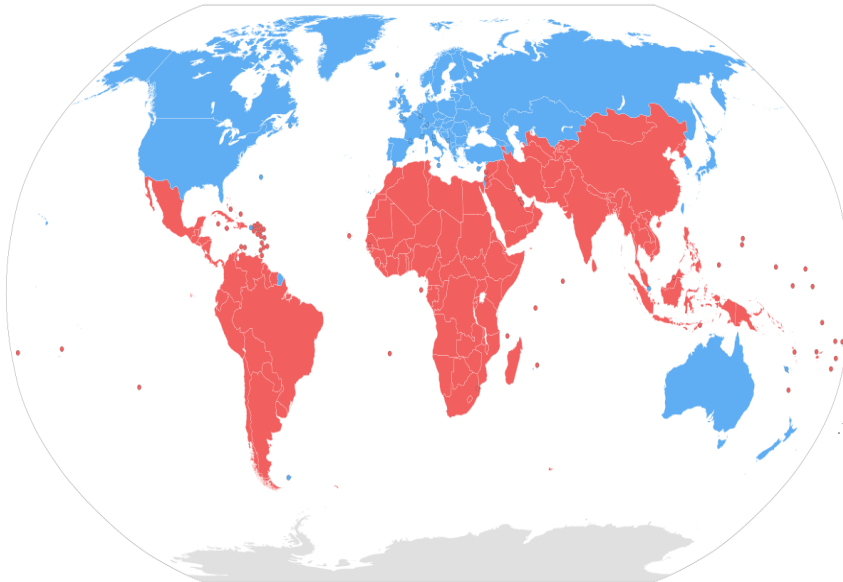
GLOBAL
ENVIRONMENTAL
CHANGE
www.elsevier.com/locate/gloenvcha

Big science, small impacts—in the South? The influence of global environmental assessments on expert communities in India

Frank Biermann*

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Received 8 February 2000; received in revised form 20 March 2001



**Science as Power in
International Environmental Negotiations:
Global Environmental Assessments
Between North and South**

**Institutions for Scientific Advice:
Global Environmental Assessments
and Their Influence
in Developing Countries**

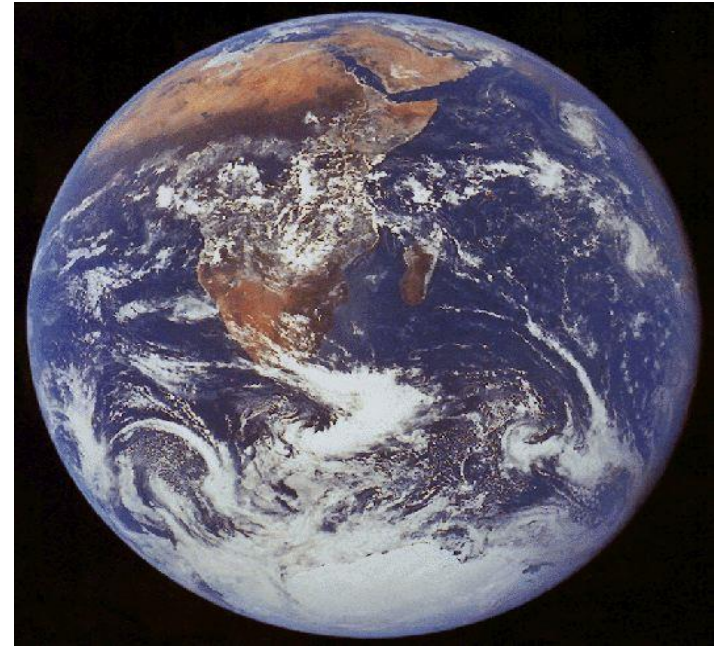


Frank Biermann

III. THE NORMATIVE CHALLENGE OF EARTH SYSTEM GOVERNANCE

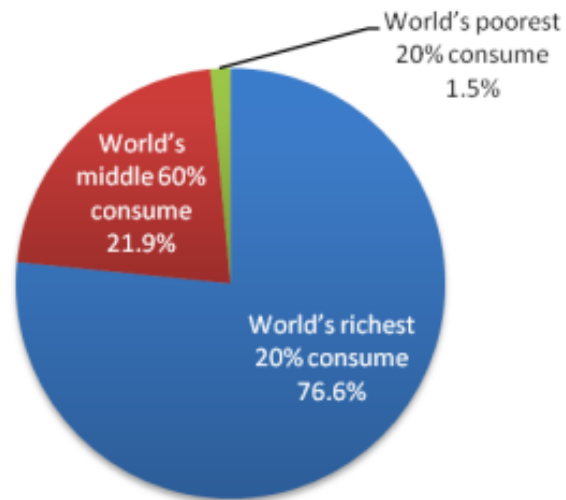


Globale Interdependenz



INTERNATIONALE GERECHTIGKEIT

Share of world's
private consumption, 2005



Source: World Bank Development Indicators 2008



INTERTEMPORALE GERECHTIGKEIT 1: DIE ROLLE DER VERGANGENHEIT

Wann beginnt das “Klimabudget”?

Welche historischen Emissionen müssen mitzählen?



INTERTEMPORALE GERECHTIGKEIT 2:

WER REPRÄSENTIERT DIE ZUKUNFT



INTERSPECIES JUSTICE



ZIVILGESELLSCHAFT UND DEMOKRATIE



“INTERNATIONALE STANDARDS” VERSUS GLOBAL NORMFRAGMENTATION



DIE FRAGE DER RICHTERLICHEN MACHT IN DER DEMOKRATIE

Wenn Richter*innen zunehmend die Rechtmäßigkeit politischen Handelns bei globalen Umweltfragen prüfen, bringt es die Rechtsprechung immer mehr in Konflikt mit der Legislative.

Klimaschutz ist hier ein (juristisch) noch relativ einfaches Problem!

- Es gibt den breit anerkannten IPCC.
- Es gibt das universell anerkannte Paris-Agreement.
- Es gibt ein (Umwelt)Ziel von 2 oder 1.5 Graden.
- Es gibt relativ einfache Kausalitäten – Emissionen bewirken Erderwärmung.

Nicht alle Probleme sind so deutlich!

ANSÄTZE ZUR GLOBALEN NORMENTWICKLUNG

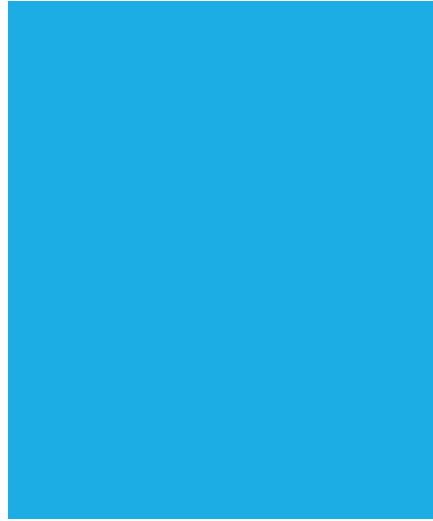
Intergovernmentalism: Public mandate /
representation

Pluralism: Stakeholder
representation /
participation

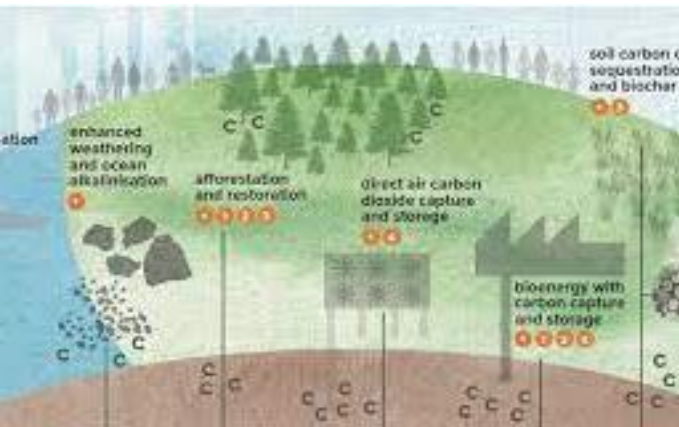
Scientism: Scientific autonomy /
'truth'

IV. NEUE (RECHTS)FRAGEN DES ANTHROPOZÄNS





BEISPIEL: CARBON DIOXIDE REMOVAL



DEEP TIME GOVERNANCE



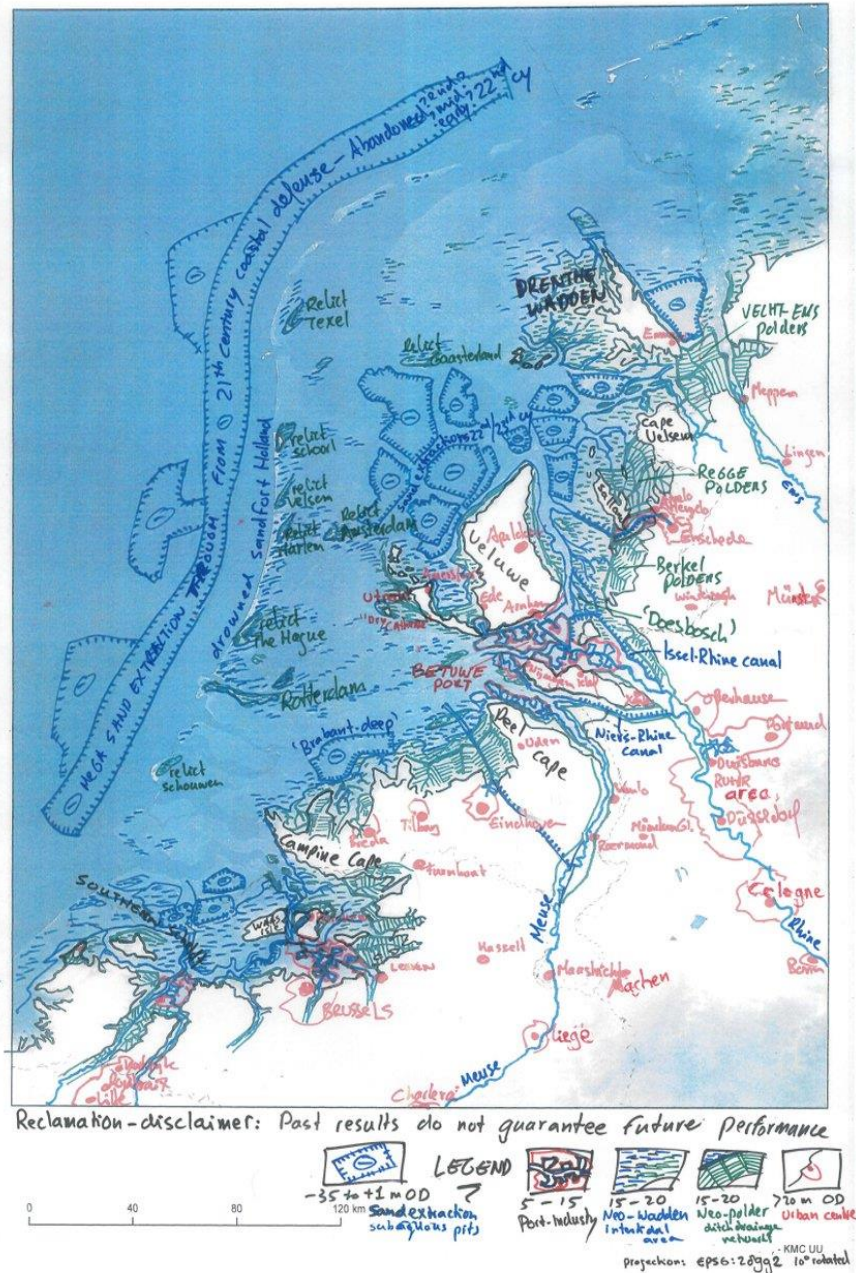
GLOBAL ADAPTATION GOVERNANCE



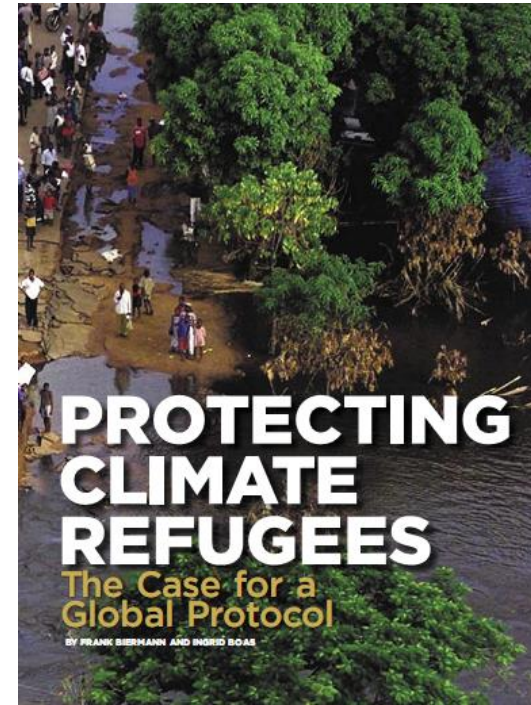
“Given that [the 2° target] is an ambitious target, ... we should be prepared to adapt to 4 degrees.”

R. Watson, The Guardian, 2008

ANPASSUNG: “PLANNED RETREAT?” THE NETHERLANDS IN 2300?



NEUE REGELN ZUM SCHUTZ VON KLIMAMIGRANTEN / KLIMAFLÜCHTLINGEN



Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees

Frank Biermann and Ingrid Boas¹

Introduction

The need to mitigate climate change has dominated the debate on global environmental governance until very recently. It is now evident that mitigation efforts have been too little and too late. Climate change is a reality of world politics in the twenty-first century. This reality requires a new, additional focus in both academic research and policy planning: how can we build over the course of the next decades systems of global governance that will cope with the global impacts of climate change? What institutions are in need of redesign and strengthening? To what extent, and in what areas, do we need to create new institutions and governance mechanisms from scratch?

Not much policy research on these questions is available.² In light of the most recent scientific findings, which indicate possibly accelerating climatic change, there is thus an urgent need for a new academic research program on

SOLAR GEOENGINEERING — EIN FALL FÜR DIE RICHTER?

(SIEHE SCHWEDEN!)



Rich man's solution? Climate engineering discourses and the marginalization of the Global South

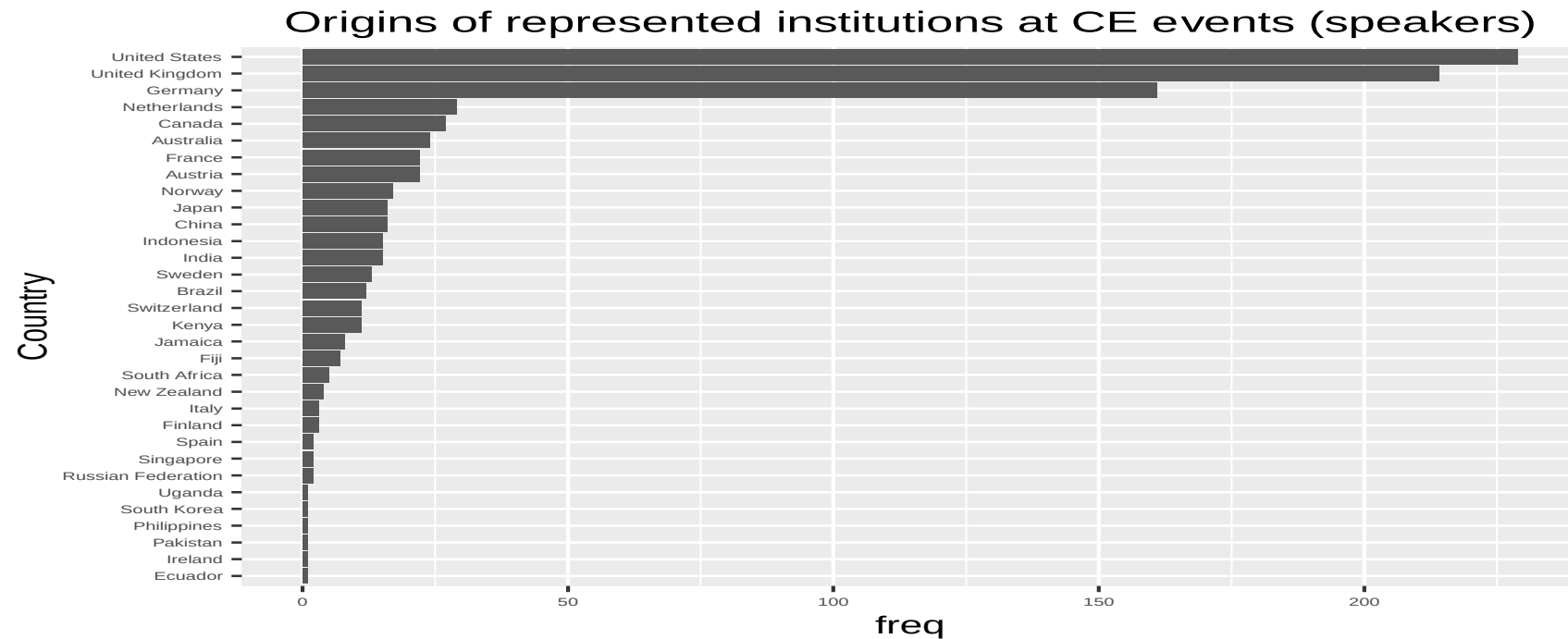
Authors

Authors and affiliations

Frank Biermann , Ina Möller

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First Online: 06 March 2019



LÖSUNGEN?

Brauchen wir eine neue Art der Rechtsprechung
(interdisziplinäre Gerichte?)

Brauchen wir eine neue Art der juristischen
Ausbildung?

Brauchen wir eine neue Art der
transnationalen/internationalen Rechtsentwicklung?



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