

Oliver C. Ruppel | Christian Roschmann |
Katharina Ruppel-Schlichting

Climate Change: International Law and Global Governance

Volume II: Policy, Diplomacy and Governance
in a Changing Environment



Nomos

Prof. Dr. Oliver C. Ruppel |
Prof. Dr. Christian Roschmann |
Dr. Katharina Ruppel-Schlichting [Eds]

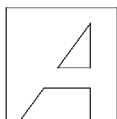
Climate Change: International Law and Global Governance

Volume II: Policy, Diplomacy and
Governance in a Changing Environment



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FOREWORD

It is with great pleasure and honour that I am writing a foreword for this eminent work, which seeks to promote the international rule of law, contribute to durable global peace, avoid conflict, lead to more effective protection of human rights, as well as sustain economic progress and development.

The two volumes of *Climate Change: International Law and Global Governance* describe important topics in respect to mankind and the future that lies ahead. Perhaps, the most important topics are the regulatory and diplomatic aspects of climate change.

In June 2013, UN Secretary-General Ban Ki-moon said “the scientific community plays a key role in finding new ways to combat climate change.” When looking at this publication I must add that the same issue, most likely, also applies to the legal community! It serves as a valuable tool in harnessing the full strength of the global community, catalysing ambitious action, persuading the reduction of emissions, and strengthening climate resilience.

In 1979, Pope John Paul II named St. Francis of Assisi the patron saint “of those who promote ecology”. Interestingly, the recently elected Pope Francis chose his name in honour of the historic preacher, who similarly conducted and was famous for his rather unconventional way of life. Born into wealth, St. Francis of Assisi eventually renounced all of his belongings, aspiring to live a life of wilful poverty in the quest for increased social justice. With respect to this quest, this publication also addresses the promotion of ecology, (un-) conventionalism, distribution of wealth, alleviation of poverty, and the promotion of global social justice.

In light of the impacts of climate change, international regimes face serious concerns with issues such as human rights, global trade, territorial sovereignty, or migration. Legal responses and global responsibilities, therefore, gain an increased political meaning as they encompass legal and policy responses of climate change (e.g. via liability or jurisdiction, and litigation).

In March 2013, the EU Commissioner for Climate Action, Connie Hedegaard, presented a speech at a Conference at Harvard University where she commented inter alia on the “pattern of more frequent and more severe extreme weather worldwide.” She said: “What we see fits with the scientific community’s projections of what a warming world will be like - except that their projections are actually becoming reality even faster than they themselves expected. As President Obama has said, we can either believe that these events were just a

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coincidence, or we can choose to believe in the overwhelming judgment of science and act before it's too late."

The challenge of strengthening national and international climate change policy, sustainable development, and increasing equity around the world are above the capacity of national governments. Thus, international climate change cooperation and protection efforts are crucial not only in the context of national but also global security.

Only recently German Chancellor Angela Merkel called for an internationally binding climate pact to be completed by 2015. "Waiting is not an option," she said. In addition, German Environmental Minister Peter Altmaier mentioned that 2015 will be an important year in climate negotiations. He said: "The international awareness that we need to reach, as a milestone by 2015, is growing," adding that progress "in many areas is still too slow and not enough."

In light of the aforementioned, I commend the editors of this significant work! This publication is not merely an inventory but, furthermore, one of the first academic attempts to systematically address both international climate change law and global climate change governance from a variety of doctrinal, transdisciplinary and thematic perspectives. As a political foundation the Konrad-Adenauer-Stiftung is committed to fostering democracy and the rule of law, implementing social and market-economic structures, and promoting human rights. In this respect, the protection of the environment, as well as issues of climate change and sustainable development are major concerns to this foundation. It is, thus, a privilege for the Konrad-Adenauer-Stiftung to support this important publication. This is a remarkable reflection of the commitment and expertise displayed by the editors and contributors to whom we are very grateful.

Hans-Gert Poettering was born on 15 September of 1945 in Bersenbrueck (Lower Saxony, Germany). Since 1979 he has been a Member of the European Parliament whose President he was from 2007 to 2009. Since 2010 he is President of the Konrad-Adenauer-Stiftung. Hans-Gert Poettering belongs to the Group of the European People's Party (EPP) and is a member of the Christian Democratic Union (CDU, Germany).



Berlin, 17 June 2013

PREFACE

International climate change law is not only a new and emerging legal discipline. In fact, climate change in many ways permeates public and private law, as well as national and international law, creating intersections of law in its diverse procedural and substantive fields. This two-volume publication on *Climate Change: International Law and Global Governance* deals with international law and the multiple regulatory regimes which presently reflect fragmentation in the absence of a universal climate change regime. International climate change law, global climate governance and diplomacy are interrelated and extremely complex: the publication explores these areas from a variety of doctrinal, transdisciplinary and thematic perspectives.

Volume I: *Legal Responses and Global Responsibility* attempts to assess the most pressing impacts of climate change on various international law regimes and their responses thereto. In doing so, the volume inter alia reflects on international climate change law as a new international law discipline; climate change and human rights; climate change, international trade and investment law; the law of the sea and sea-level rise; judicial review and international climate change litigation; and multiple crosscutting issues such as mitigation regulation, natural resource management and climate-engineering.

As a point of departure, **Volume II: *Policy, Diplomacy and Governance in a Changing Environment*** reflects on the United Nations Convention on Climate Change (UNFCCC) and the most pressing impacts of climate change on international diplomacy and global governance. This is highlighted from various transdisciplinary and geopolitical perspectives with a special focus on the challenges of strengthening national and international climate change policy, promoting sustainable development and increasing equity around the world, which go beyond the capacity of national governments. Various international climate change cooperation and protection efforts are analysed, also in the context of global security, climate-induced migration movements, adaptation, and the loss and damage debate.

The effectiveness of the international response to climate change depends upon the legal tools available and the political will to ensure effective implementation. An enabling legal environment, underpinned by good governance and respect for the rule of law, is a prerequisite for greater international

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climate change equity. In this spirit, it is hoped that this publication can make a humble contribution towards ensuring more global justice, human security and international peace.

The Editors

Oliver C. Ruppel Christian Roschmann Katharina Ruppel-Schlichting

ACKNOWLEDGEMENTS

A multi-authored publication such as this is an enormous team effort. With so many contributors from all continents of the world, our thanks go first and foremost to all the distinguished authors.

Moreover, we are very grateful to the Konrad-Adenauer-Stiftung which generously supported this enormous project in its various phases including the publication itself. In September 2012 the Konrad-Adenauer-Stiftung Rule of Law Program for Sub-Saharan Africa in collaboration with the Faculty of Law of the University of Stellenbosch, South Africa, held two consecutive conferences, one on *Climate Change and Governance* and another on *Climate Change, Legal Responses and Global Responsibility* in Stellenbosch, South Africa. The conferences deliberated on the effects and the legal aspects of climate change on governance and other pertinent issues. The participants – many of them also represented in this publication – comprised international experts drawn from around the world.

Our special thanks go to Professor Dr. Hans-Gert Poettering (Member of the European Parliament and President of the Konrad-Adenauer-Stiftung); Dr. Gerhard Wahlers (Deputy Secretary-General of the Konrad-Adenauer-Stiftung); and Dr. Christian Hübner (Coordinator for Environmental, Climate and Energy Affairs of the Konrad-Adenauer-Stiftung) for their continuous support.

We also thank NOMOS Publishers Baden-Baden and particularly Professor Dr. Johannes Rux and Dr. Phillipp Küsgens for their professional support.

The Editors

Oliver C. Ruppel Christian Roschmann Katharina Ruppel-Schlichting

<http://www.nomos-shop.de/19844>

THE EDITORS

Prof. Dr. Oliver C. Ruppel is Professor of Public and International Law at the Faculty of Law of the University of Stellenbosch, South Africa; Professor Extraordinaire at several universities around the world and Fellow of the Ciucci Centre for Law and Social Development, an initiative of the Stonehage Charitable Trust. Until 2010 he held one of the worldwide 14 academic chairs of the World Trade Organisation (WTO), Geneva, Switzerland, which he established at the University of Namibia, Windhoek, where he had previously also served as the Director of the national Human Rights and Documentation Centre. He currently serves as Coordinating Lead Author for the Chapter on Africa in the United Nations Intergovernmental Panel on Climate Change (IPCC), Working Group II. He is an international arbitrator with the Association of Arbitrators of Southern Africa, member of the South African and Swiss Branches of the International Law Association, and member of various editorial boards, including the *NIALS Journal of Environmental Law*, and the legal series *Law and Constitution in Africa*, Nomos Publishers, Germany. His latest publications include: Ruppel, Oliver C. & Katharina Ruppel-Schlichting (Eds), 2013, *Environmental Law and Policy in Namibia. Towards Making Africa the Tree of Life*, Windhoek/Essen, Orumbode Press/Welwitschia Verlag Dr. A. Eckl; Ruppel, Oliver C. & Gerd Winter (Eds), 2011, *Justice from Within: Legal Pluralism in Africa and beyond*, Hamburg, Kovač.

Prof. Dr. Christian Roschmann is the Director of the Rule-of-Law-Programme for Sub-Saharan Africa of the Konrad-Adenauer-Foundation, based in Nairobi, Kenya. He is Professor at the Hochschule Harz, University of Applied Sciences, in Saxony-Anhalt, Germany and was visiting Professor at Strathmore Law School, Nairobi, Kenya in 2012 -2013. He was previously Director of the Legal and Human Rights Department of the Ministry of Foreign Affairs of Timor Leste. His latest publication is: Roschmann, Christian et al., *Kenya's Constitutional Review. Experience and Lessons to be Learned for the Constitution-making Process in Tanzania*, to be published in the near future in: Series 3, Tanzanian-German Centre for East African Legal Studies, Dar-es-Salaam.

Dr. Katharina Ruppel-Schlichting is the Director of the Legal Research and Development Trust for Africa, Windhoek, Namibia and Stellenbosch, South Africa. She is an international legal consultant and author of a variety of legal academic writings. Her latest publications include the following: Ruppel, Oliver C. & Katharina Ruppel-Schlichting (Eds), 2013, *Environmental Law and Policy in Namibia. Towards Making Africa the Tree of Life*, Windhoek/Essen, Orumbode Press/Welwitschia Verlag Dr. A. Eckl; Ruppel, Oliver C. & Katharina Ruppel-Schlichting, 2012, Climate Change and Human Security: Relevant for Regional Integration in SADC?, in: Hartzenberg, Trudi, Gerhard Erasmus & Andre Du Pisani (Eds), *Monitoring Regional Integration in Southern Africa – 2011 Yearbook for Regional Integration*, Stellenbosch, tralac, 32–71.

THE CONTRIBUTORS

Dr. Achala C. Abeyasinghe is Senior Researcher and Team Leader in the Global Climate Change Law, Policy and Governance Group at the International Institute for Environment and Development (IIED), London, United Kingdom. Her interests are in equity and fairness issues in international climate change negotiations, adaptation to climate change and finance for climate change adaptation. She is the team leader of the Global Climate Governance Programme and Head of the European Capacity Building Initiative (ecbi) workshops programme at IIED. She is an adviser to the Chairman of the Least Developed Country (LDC) Group in the UNFCCC negotiations and a Lead Author of the Chapter on Climate Resilient Pathways: Adaptation, Mitigation and Sustainable Development for the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC). One of her latest publications is: Horstmann, Britta & Achala C. Abeyasinghe, 2011, The Adaptation Fund of the Kyoto Protocol: A Model for Financing Adaptation to Climate Change?, *Climate Law* 2 (3), 415–437.

Ambassador Gilberto Arias is Senior Policy Advisor on Climate Change and Sustainable Development Initiatives. For the period 2009–2011 he was the Ambassador of the Republic of Panama to the United Kingdom in a bilateral capacity; Permanent Representative to the International Maritime Organisation (IMO); and Principal Negotiator for Panama to the UNFCCC in multilateral work.

Christoph Bals is Policy Director at Germanwatch, Bonn, Germany. He is a Board Member of the *Stiftung Zukunftsfähigkeit* (Foundation for Sustainability), the Munich Climate Insurance Initiative (MCII) and the Renewables Grid Initiative (RGI). He is a Member of the Nerve Centre of the Global Campaign for Climate Action (GCCA) and has co-initiated many initiatives in the area of climate and development as well as climate and economics – for example, e5, e-mission 55, and atmosfair. One of his latest publications is: Bals, Christoph, 2013, Die menschliche Gesellschaft bewegt sich auf eine Zeit steigenden Risikos zu. Hat sie die Entwicklung bereits wahrgenommen? Nur wenig spricht dafür, *Die Furche* 02/2013.

Prof. Dr. Ian Burton is Emeritus Professor at the University of Toronto, Canada and an independent scholar and consultant. He is Scientist Emeritus Environment Canada and a Lead Author in the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC). He is a Visiting Fellow at the International Institute for Environment and Development (IIED) and a Member of the Board of Trustees of the World Academy of Arts and Science, and of the Advisory Boards of the Collaborative Adaptation Research Initiative in Africa and Asia (CARIAA) and the International Centre for Climate Change and Development (ICCCAD). His latest publications include the following: Fankhauser, Samuel & Ian Burton, 2013, Spending Adaptation Money Wisely, in: Haites, Erik (Ed.) *International Climate Finance*, London, Earthscan, 178–193; Ian Burton et al., 2011, *Integrated Research on Disaster Risk*, Forensic Investigations of Disasters: The FORIN Project, Beijing, IRDR FORIN Publication No. 1.

Prof. Dr. Christian Calliess is Professor of Constitutional, European and Environmental Law at the Faculty of Law of the Freie Universität Berlin, Germany. Since 2008 he is a Member of the Advisory Council on the Environment of the Federal Government of Germany (Sachverständigenrat für Umweltfragen – SRU), and a Member of the International Law Association (ILA) Committee *The Legal Principles Relating to Climate Change*. Until the end of 2012 he was a Judge at the Higher Administrative Court (Oberverwaltungsgericht) of the Federal States of Berlin and Brandenburg, Germany. He is a former Member of the Federal Government’s Commission on Nanotechnology (Nanokommission der deutschen Bundesregierung). His latest publications include: Calliess, Christian, 2013, The Dynamics of European Citizenship: From Bourgeois to Citoyen, in: Court of Justice of the European Union (Ed.), *The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-Law – La Cour de Justice et la Construction de l’Europe: Analyses et Perspectives de Soixante Ans de Jurisprudence*, Berlin, Springer, 425–441.

Alexander Carius is a Co-founder and Managing Director of adelphi, Berlin, Germany. The core topics of his research and consultancy work are: resources and governance, climate and energy, and development and security. He also provides advice on institutional matters with respect to environmental and development policy, policy integration and the development regional and multilateral cooperation frameworks. He advises federal ministries, aid agencies, the European Commission and various international organisations. He has been an evaluator for the European Commission’s

Research Framework Programmes since the 1990s and evaluates programmes and projects for aid agencies and international organisations. He is a Board Member of various projects and journals and sat on the German Government's Advisory Panel on Civilian Crisis Prevention, Conflict Resolution and Peace Consolidation from 2005 to 2009. One of his latest publications is: Tänzler, Dennis & Alexander Carius (Eds), 2012, *Climate Diplomacy in Perspective. From Early Warning to Early Action*, Berlin, Berliner Wissenschafts-Verlag.

Dr. Andrew Dlugolecki is Visiting Research Fellow, Climatic Research Unit, University of East Anglia, United Kingdom. One of his latest publications is: Leurig, Sharlene & Andrew Dlugolecki, 2013, *Insurer Climate Risk Disclosure Survey: 2012 Findings & Recommendations*, Boston, CERES.

Dr. Kristie L. Ebi is an independent consultant who conducts research on the impacts of and adaptation to climate change, including on extreme events, thermal stress, foodborne safety and security, and vectorborne diseases. She also is a Guest Professor at Umeå University, Sweden and a Consulting Professor at Stanford University, United States of America. She was the Executive Director of the Intergovernmental Panel on Climate Change (IPCC), Working Group II, Technical Support Unit (TSU) from 2009–2012. One of her latest publications is: Ebi, Kristie L., Stéphane Hallegatte, Tom Kram, Nigel W. Arnell, Timothy R. Carter, Jae Edmonds, Elmar Kriegler, Ritu Mathur, Brian C. O'Neill, Kewyan Riahi, Harald Winkler, Detlef P. van Vuuren & Timm Zwickel, 2013, *A New Scenario Framework for Climate Change Research: Background, Process, and Future Directions*, *Climatic Change*.

Harrie Esterhuysen is Research Analyst at the Centre for Chinese Studies (CCS) at the University of Stellenbosch, South Africa. One of his latest publications is: Esterhuysen, Harrie, 2012, *Climate Change Risk and Response: Droughts as Extreme Weather Events in China*, Centre for Chinese Studies Discussion Paper 5/2012.

Fana Gebresenbet finished his MSc in Physical Land Resources from Gent University, Belgium, in September 2008, and has worked as a Researcher at the Africa Programme of the University for Peace on issues of climate security. He has now joined the Institute for Peace and Security Studies of Addis Ababa University (AAU), Ethiopia, and is a PhD candidate at the joint PhD programme in Global and Area Studies offered by the AAU and the

University of Leipzig, Germany. His latest publications include the following: Kefale, Asnake & Fana Gebresenbet, 2012, Discrepancies between Traditional Coping Mechanisms to Climate Change and Government Intervention in South Omo, Ethiopia, in: Berhe, Mulugeta G. & Jean-Bosco Butera (Eds), *Climate Change and Pastoralism: Traditional Coping Mechanisms and Conflict in the Horn of Africa*, IPSS and UPEACE.

Prof. Dr. Siri Gloppen is Professor of Political Science with a research focus in the intersection between law and politics at the Department of Comparative Politics at the University of Bergen, Norway. She is Senior Researcher and former Research Director of the Chr. Michelsen Institute (CMI), an independent development research institute in Bergen, Norway, where she is the Head of the Centre for Law and Social Transformation. From April 2013 she is also Research Coordinator at the PluriCourts Centre of Excellence at the University of Oslo, Norway. One of her latest publications is: Gloppen, Siri & Varun Gauri, 2012, Human Rights Based Approaches to Development: Concepts, Evidence, and Policy, *Polity* 44 (4), 485–550.

Dr. Sven Grimm is the Director of the Centre for Chinese Studies (CCS), a leading African research institution for innovative and policy relevant analysis of the relations between China and Africa, at the University of Stellenbosch, South Africa. Previously he was a Research Fellow at the German Development Institute (DIE) in Bonn, Germany and the Overseas Development Institute (ODI) in London, United Kingdom. His latest publications include: Grimm, Sven & Meryl Burgess, 2013, Greening Chinese-African Relations?, in: Li, Xing & Abdulkadir O. Farah (Eds), *China-Africa Relations in an Era of Great Transformations*, Farnham, Ashgate Publishers, 71–86; Grimm, Sven & He Wenping, 2012, Emerging Partners and Their Impact on African Development, in: Lundsgaarde, Erik (Ed.), *Africa Toward 2030 Challenges for Development Policy*, Hampshire, Palgrave Macmillan, 196–223.

Dr. Eugene Gurenko is Lead Insurance Specialist at the World Bank Insurance Practice, where he is actively involved in developing catastrophe risk management solutions for World Bank client countries. He is furthermore Executive Board Member of the Munich Climate Insurance Initiative (MCII) and author of numerous professional publications on catastrophe insurance and reinsurance. One of his publications is: Gurenko, Eugene, 2007, *Climate Change and Insurance*, London, Earthscan.

Dr. Armin Haas is Fellow of the Institute for Advanced Sustainability Studies, Potsdam, Germany. One of his latest publications is: Lass, Wiebke, Armin Haas, Jochen Hinkel & Carlo C. Jaeger, 2013, Avoiding the Avoidable: Towards a European Heat Waves Risk Governance, in: Shi, Peijun & Carlo C. Jaeger, *Integrated Risk Governance, IHDP-Integrated Risk Governance Project Series*, Volume 1, Beijing and Berlin, Springer.

Holger Haibach is Country Director of the Konrad-Adenauer-Stiftung for Namibia and Angola, based in Windhoek, Namibia. From 2002 to 2011 he was a Member of the German Parliament (Deutscher Bundestag) and inter alia functioned as Spokesperson of the CDU/CSU Group on Economic Cooperation and Development.

Dr. Dirk Hanschel is Reader in Energy Law at the School of Law, University of Aberdeen, Scotland. From 1999–2005 he participated in an interdisciplinary research project on the *Institutionalization of International Negotiations Systems* funded by the German Research Foundation. In parallel, he was working as a Senior Research Assistant at the University of Mannheim, Germany. One of his latest publications is: Hanschel, Dirk, 2011, Developing a Legal Toolkit – Institutional Options to Remove Stumbling Blocks in the Climate Negotiations, in: Sjöstedt, Gunnar & Ariel M. Penetrante (Eds), *Climate Change Negotiations: A Guide for Resolving Disputes and Facilitating Multilateral Cooperation*, London, Routledge Publications.

Sven Harmeling is Team Leader for International Climate Policy at Germanwatch, Bonn, Germany. One of his latest publications is: Harmeling, Sven (with support from Anja Esch, Linde Griesshaber, David Eckstein, Lisa Junghans, Smita Nakhoda & Taryn Fransen), 2013, *The German Fast-Start Finance Contribution*, Bonn, Germanwatch, ODI and WRI.

Dr. Christian Hey is Secretary General of the German Advisory Council on the Environment (Sachverständigenrat für Umweltfragen – SRU). One of his latest publications is: Hey, Christian, 2012, Low-carbon and Energy Strategies for the EU – The European Commission’s Roadmaps: A Sound Agenda for a Green Economy? *Gaia* 1/2012, 43–47.

Prof. Dr. Manfred O. Hinz is Professor of Law at the Faculty of Law of the University of Bremen, Germany and the Centre for African and Migration Studies. He is also Research Professor at the Faculty of Law of the University of Namibia, where he previously served as the Dean and held the UNESCO Chair. He published widely in the fields of Legal and Political

Anthropology, Constitutional and International (Economic) Law. His recent publications include: Hinz, Manfred O., 2013, Customary Law and the Environment, in: Ruppel, Oliver C. & Katharina Ruppel-Schlichting (Eds), *Environmental Law and Policy in Namibia. Towards Making Africa the Tree of Life*, Windhoek/Essen, Orumbode Press/Welwitschia Verlag Dr. A. Eckl, 359–384; Hinz, Manfred O., Oliver C. Ruppel & Clever Mapaire (Eds), 2012, *Knowledge Lives in the Lake. Case Studies in Environmental and Customary Law from Southern Africa*, Windhoek, Namibia Scientific Society.

Prof. Dr. Peter Höppe is the Head of Munich Re's *Geo Risks Research/Corporate Climate Centre*, Munich, Germany. Before joining Munich Re, he has worked in different university institutes with a research focus on effects of atmospheric processes and air pollutants on humans and the general assessment of environmental risks. Currently his research focus is on trends of natural catastrophes and their drivers and on climate change effects on the insurance industry in general. He is a Scientific Member and Advisor in several associations. Furthermore, he is the Founder and Chairperson of the Munich Climate Insurance Initiative (MCII) and one of the initiators of the Desertec Industrial Initiative (Dii). One of his recent publications is: Warner, Koko, Sönke Kreft, Michel Zissener, Peter Höppe, Christoph Bals, Thomas Loster, Joanne Linnerooth-Bayer, Silvio Tschudi, Eugene Gurenko, Armin Haas, Simon Young, Paul Kovacs, Andrew Dlugolecki & Aaron Oxley, 2012, Insurance Solutions in the Context of Climate Change-related Loss and Damage: Needs, Gaps, and Roles of the Convention in Addressing Loss and Damage, Munich Climate Insurance Initiative (MCII) submission to the SBI Work Programme on Loss and Damage, October 2012, Policy Brief No. 6, Bonn, United Nations University Institute for Environment and Human Security (UNU-EHS).

Sainab Husain Paragay is a Scientist at the University of Makassar, Indonesia. One of her recent publications is: Schwerdtner Máñez, Kathleen, Sainab Husain, Sebastian C.A. Ferse & Maria Máñez Costa, 2012, Water Scarcity in the Spermonde Archipelago, Sulawesi, Indonesia: Past, Present and Future, *Environmental Science and Policy* 23, 74–84.

M. Hafijul Islam Khan is an Environmental Lawyer, working on legal issues related to environment and climate change. He is Executive Director at the Centre for Climate Justice-Bangladesh (CCJ-B) and has worked with: Germanwatch, Bonn, Germany; Bangladesh Environmental Lawyers Asso-

ciation (BELA), Dhaka, Bangladesh; and has been working as the Core Team Member, with LDCs climate negotiators group on loss and damage associated with climate change to assist the LDCs Chair and other group members. One of his latest publications is: Khan, Hafijul I., 2008, Policy Reforms in Response to Climate Change, IUCN-BD.

Dr. Robert M. Kibugi is Lecturer in Environmental Law at the Centre for Advanced Studies in Environmental Law and Policy (CASELAP) at the University of Nairobi, Kenya. He is a Member to Board of IUCN Academy of Environmental Law (IUCNAEL), Ottawa, Canada for the African Continent. One of his latest publications is: Kibugi, Robert, 2012, Implementing Stewardship in Kenyan Land Use Law: The Case for a Sustainability Extension, in: Martin, Paul, Anel Du Plessiss, Yves LeBouthilier, Li Zhiping & Qin Tianbao (Eds), *Environmental Governance and Sustainability*, Cheltenham, Edward Elgar.

Prof. Paul Kovacs is Executive Director, Institute for Catastrophic Loss Reduction at the Western University, Ontario, Canada. He is the President and CEO of the Property and Casualty Insurance Compensation Corporation (PACICC) and Adjunct Research Professor of Economics at the Western University. He is a Lead Author for the North America Chapter of the Intergovernmental Panel on Climate Change (IPCC), Working Group II, in the Third, Fourth and Fifth Assessment Reports.

Sönke Kreft is Policy Officer, Climate, Development and Insurance for the NGO Germanwatch e.V., Bonn, Germany and Project Leader of the *Loss and Damage in Vulnerable Country Initiative*. He is furthermore Research Associate at the United Nations University, Institute for Environment and Human Security (UNU-EHS), Bonn, Germany. One of his latest publications is: Kreft, Sönke, 2013, Loss and Damage: Unpacking the Doha Decision 3/CP.18, Germanwatch discussion briefing prepared in the context of the Loss and Damage in Vulnerable Country Initiative.

Julie G. Lennox is the Climate Change Focal Point, Agricultural Development Unit Chief and Coordinator of the Economics of Climate Change in Central America Initiative, Subregional Headquarters in Mexico of the Economic Commission for Latin America and the Caribbean of the United Nations. She is the Coordinator of the institutional publication *The Economy of Climate Change in Central America: Summary 2012*, ECLAC, COSEFIN, CCAD/SICA, UKAID & DANIDA.

Prof. Dr. Marcel Leroy is Senior Researcher at the UN-mandated University for Peace, Africa Programme, Addis Ababa, Ethiopia, directing projects on the impact of environmental factors and climate change on security in Africa. After having served as Head of Multilateral and Regional Affairs at the NATO Secretariat in Brussels, Belgium, he worked as Special Advisor for Multilateral Issues and Political Advisor to the European Commission and the Council of the European Union from 1997 until 2008, completing various assignments in Africa, including as representative to the Organisation of African Unity and with the EU Special Representative for Sudan. His recent publications include the following: Leroy, Marcel & Fana Gebresenbet, 2011, *Climate Conflicts in the Horn of Africa?*, *Conflict Trends*; Leroy, Marcel (Ed.), 2009, *Environment and Conflict in Africa: Reflections on Darfur*, Addis Ababa, University for Peace Africa Programme.

Prof. Dr. Wanxin Li is Assistant Professor at the Department of Public Policy at the City University of Hong Kong, China. The topics of her publications include environmental information disclosure, environmental compliance and enforcement, eco-innovation policies, and subjective well-being in China. One of her latest publications is: Li, Wanxin & Paul Higgins, forthcoming 2013, *Controlling Local Environmental Performance: An Analysis of Three National Environmental Management Programs in the Context of Regional Disparities in China*, *Journal of Contemporary China* 22 (81).

Dr. Joanne Linnerooth-Bayer is Program Leader in the Risk, Policy and Vulnerability Program at the International Institute for Applied Systems Analysis (IIASA) in Laxenburg, Austria. One of her latest publications is: Burton, Ian, O. Pauline Dube, Diarmid Campbell-Lendrum, Ian Davis, Richard J.T. Klein, Joanne Linnerooth-Bayer, Apurva Sanghi, & Ferenc Toth, 2012, *Managing the Risks: International Level and Integration Across Scales*, in: IPCC/Intergovernmental Panel on Climate Change, 2012, *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation*, A Special Report of Working Groups I and II of the Intergovernmental Panel on Climate Change, Field, Christopher B., Vicente Barros, Thomas F. Stocker, Dahe Qin, David J. Dokken, Kristie L. Ebi, Michael D. Mastrandrea, Katharine J. Mach, Gian-Kasper Plattner, Simon K. Allen, Melinda Tignor & Pauline M. Midgley (Eds), Cambridge, Cambridge University Press, 393–435.

Thomas Loster is the Chairperson of the Munich Re Foundation, Munich, Germany since 2004. He is a geographer and was a member of the Geo-

science Research Group at Munich Reinsurance Company, Munich, for 16 years. He was in charge of issues relating to Natcat trends, weather perils, climate change and climate policy. The Munich Re Foundation addresses major global challenges including environmental and climate change, population growth and disaster prevention. Building resilience through disaster prevention as well as through microinsurance and other tailor-made insurance solutions is one key pillar of the work of Munich Re Foundation.

Cord Lüdemann is a LL.D. Candidate at the Faculty of Law of the University of Stellenbosch, South Africa. He is a Lawyer at the German Federal Network Agency (Bundesnetzagentur), Bonn, Germany. One of his latest publications is: Lüdemann, Cord, 2013, *The Role of Renewable Energies in Industrialised and Developing Countries*, in: Ruppel, Oliver C. & Katharina Ruppel-Schlichting (Eds), 2013, *Environmental Law and Policy in Namibia. Towards Making Africa the Tree of Life* (Second Edition), Windhoek/Essen, Orumbonde Press/Welwitschia Verlag Dr. A. Eckl, 235–244.

Prof. Dr. María Máñez Costa is the Head of the Economics and Policy Department at the Climate Service Center (CSC) in Hamburg, Germany. She works on political consulting, focused on international climate policy, climate economics, climate and security as well as participation approaches. She is also Visiting Professor at the University of Barcelona, Spain. One of her latest publications is: Schwerdtner Máñez, Kathleen, Sainab Husain, Sebastian C.A. Ferse & Maria Máñez Costa, 2012, *Water Scarcity in the Spermonde Archipelago, Sulawesi, Indonesia: Past, Present and Future*, *Environmental Science and Policy* 23, 74–84.

Prof. Dr. Aidan G. Msafiri is Professor of Climate Ethics, Business Ethics, Social Ethics and Ethics of Sustainability at the Stella Maris Mtwara University College, a Constituent College of St. Augustine University of Tanzania. He serves on the Advisory Board of Globethics.net East Africa based in Nairobi, Kenya. He has published four books and a number of book chapters and articles in national and international academic journals. One of his latest publications is: Msafiri, Aidan G., 2012, *Globalisation of Concern II, Essays on Education, Health, Climate Change and Cyberspace*, Geneva, Globethics.net.

Dr. Babette Never is Research Fellow at the German Institute of Global and Area Studies (GIGA) in Hamburg, Germany. One of her latest publications is: Never, Babette, 2012, *Who Drives Change? Comparing the Evolution of*

Domestic Climate Governance in India and South Africa, *Journal of Environment and Development* 21 (3), 362–387.

Aaron Oxley is Executive Director, RESULTS UK, London, United Kingdom. Until 2009 he was Chief Information Officer, MicroEnsure, UK.

Dr. Erika Pires Ramos is Federal Attorney at Brazilian Institute for Environment and Natural Renewable Resources (IBAMA) in São Paulo, Brazil since 2007. She is the Founder of the South American Network for Environmental Migrations (RESAMA); Researcher at various projects such as the project on *Les catastrophes et les droits de l'homme* (CADHOM), France, the Research Group on Environmentally Displaced Persons (NEPDA), Paraíba, Brazil, and the International Law and International Relations Studies Centre (ORBIS), São Paulo, Brazil. She is furthermore a Scientific Reviewer in the Global Environment Outlook – GEO 5 UNEP, published in 2012. Her latest publications include the following: Pires Ramos, Erika & Isis Akemi Morimoto, 2012, The Strengthening of the National Environment System in the Framework of the Treaty of Environmental Education for Sustainable Societies and Global Responsibility, in: Weiss Bliacheris, Marcos & Maria Augusta Soares de Oliveira Ferreira (Eds), *Sustainability in Public Administration: Values and Practices of Socio-environmental Management*, Belo Horizonte; Pires Ramos, Erika & Andrea Pacheco Pacifico, forthcoming 2013, Humanitarian Asylum for Forced Migrants: The Case of Haitians' Arrival in Brazil.

Erin Roberts is Coordinator, Loss and Damage in Bangladesh Study at the International Centre for Climate Change and Development, Bangladesh. She contributed to the recent publication by Asaduzzaman, Mohammed et al., 2013, Assessing the Risk of Loss and Damage Associated with the Adverse Effects of Climate Change in Bangladesh, Dhaka, IPCCAD.

Agata Rogalska-Piechota is Legal Counsel at the Circuit Chamber of Legal Counsel in Warsaw, Poland. She is Chief Specialist at the Department of Proceedings before International Human Rights Protection Bodies, Ministry of Foreign Affairs, Poland. One of her latest publications is: Rogalska-Piechota, Agata, 2011, Prawny charakter zarządzeń tymczasowych (interim measures) w orzecznictwie Europejskiego Trybunału Praw Człowieka, in: Balcerzak, Michal, Tadeusza Jasudowicz & Julii Kapelańska-Pręgoswska (Eds), *Europejska konwencja praw człowieka i jej system kontrolny – perspektywa systemowa i orzecznicza*, Toruń, Katedra Praw Człowieka UMK, 359–372.

Prof. Dr. Oliver C. Ruppel is Professor of Public and International Law at the Faculty of Law of the University of Stellenbosch, South Africa; Professor Extraordinaire at several universities around the world and Fellow of the Ciucci Centre for Law and Social Development, an initiative of the Stonehage Charitable Trust. Until 2010 he held one of the worldwide 14 academic chairs of the World Trade Organisation (WTO), Geneva, Switzerland, which he established at the University of Namibia, Windhoek, where he had previously also served as the Director of the national Human Rights and Documentation Centre. He currently serves as Coordinating Lead Author for the Chapter on Africa in the United Nations Intergovernmental Panel on Climate Change (IPCC), Working Group II. He is an international arbitrator with the Association of Arbitrators of Southern Africa, member of the South African and Swiss Branches of the International Law Association, and member of various editorial boards, including the *NIALS Journal of Environmental Law*, and the legal series *Law and Constitution in Africa*, Nomos Publishers, Germany. His latest publications include: Ruppel, Oliver C. & Katharina Ruppel-Schlichting (Eds), 2013, *Environmental Law and Policy in Namibia. Towards Making Africa the Tree of Life*, Windhoek/Essen, Orumbode Press/Welwitschia Verlag Dr. A. Eckl; Ruppel, Oliver C. & Gerd Winter (Eds), 2011, *Justice from Within: Legal Pluralism in Africa and beyond*, Hamburg, Kovač.

Dr. Katharina Ruppel-Schlichting is the Director of the Legal Research and Development Trust for Africa, Windhoek, Namibia and Stellenbosch, South Africa. She is an international legal consultant and author of a variety of legal academic writings. Her latest publications include the following: Ruppel, Oliver C. & Katharina Ruppel-Schlichting (Eds), 2013, *Environmental Law and Policy in Namibia. Towards Making Africa the Tree of Life*, Windhoek/Essen, Orumbode Press/Welwitschia Verlag Dr. A. Eckl; Ruppel, Oliver C. & Katharina Ruppel-Schlichting, 2012, Climate Change and Human Security: Relevant for Regional Integration in SADC?, in: Hartzenberg, Trudi, Gerhard Erasmus & Andre Du Pisani (Eds), *Monitoring Regional Integration in Southern Africa – 2011 Yearbook for Regional Integration*, Stellenbosch, tralac, 32–71.

Kathrin Schneider currently works as management assistant for the foreign location of the EDAG Group, an engineering partner of the International Mobility Industry, in Puebla, México. She completed an internship at the Konrad-Adenauer-Stiftung, Namibia office from September to December 2012.

Prof. Dr. Werner Scholtz is Professor of Law in the Department of Public Law and Jurisprudence of the University of the Western Cape, South Africa. He is a Research Associate at the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC) and has established the Regional African Law and Human Security Initiative during 2010. He is inter alia a Member of the International Law Association (ILA) Committee on the Legal Principles of Climate Change; the ILA Committee on Recognition/Non-recognition and the European Society of International Law (ESIL) Interest Group on International Environmental Law. One of his latest publications is: Scholtz, Werner & Gerrit Ferreira, 2011, Much Ado About Nothing? The SADC Tribunal's Quest for the Rule of Law Pursuant to Regional Integration, *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht / Heidelberg International Law Journal*, 331–358.

Prof. Dr. Roland W. Scholz chaired for two decades the Natural and Social Science Interface in the Department of Environmental Sciences at the ETH (Swiss Federal Institute of Technology), Zurich, Switzerland. A mathematician, psychologist and decision theorist by training, he is particularly interested in environmental systems analysis, human-environment interactions, environmental decisions, and risk assessment. He has led numerous large-scale transdisciplinary processes to foster sustainable transitions of urban and regional systems. Currently, he is a Member of the Fraunhofer Project Group for Materials Recycling and Resource Strategies (IWKS), an institute at the engineering-society interface in resources management. One of his latest publications is: Scholz, Roland W., 2011, *Environmental Literacy in Science and Society: From Knowledge to Decisions*, Cambridge, Cambridge University Press.

Dr. Kathleen Schwerdtner Máñez is Senior Scientist at the Leibniz Center for Marine Tropical Ecology in Bremen, Germany. One of her latest publications is: Schwerdtner Máñez, Kathleen, Sainab Husain, Sebastian C.A. Ferse & Maria Máñez Costa, 2012, Water Scarcity in the Spermonde Archipelago, Sulawesi, Indonesia: Past, Present and Future, *Environmental Science and Policy* 23, 74–84.

Prof. Dr. Asuncion Lera St. Clair is Research Director at the International Centre for Climate and Environmental Research-Oslo (CICERO), Oslo, Norway and Associated Senior Researcher at the Chr. Michelsens Institute (CMI), Bergen, Norway. The philosopher and sociologist is former Professor of Sociology at the University of Bergen. She is a Lead Author of the

Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), Working Group II. Furthermore, she is a Member of the Joint Programming Initiative Connecting Climate Knowledge for Europe (JPI Climate); and Member of several Editorial Boards of international journals such as GEC, Global Social Policy, J Global Ethics, and Global Governance. One of her latest publications is: Gasper, Des, Ana V. Portocarrero & Asuncion Lera St. Clair, 2013, Climate Change and Development Framings: A Comparative Analysis of the Human Development Report 2007/8 and the World Development Report 2010, *Journal of Global Environmental Change* 23 (1), 28–39.

Dennis Tänzler is the Head of Climate and Energy Policies at adelphi, Berlin, Germany. His research focuses on climate and energy policies as well as on peace and conflict studies. He has published widely on international affairs and environmental policy and is the Programme Director of the Environment, Conflict and Cooperation Platform. One of his latest publications is: Tänzler, Dennis & Alexander Carius (Eds), 2012, *Climate Diplomacy in Perspective. From Early Warning to Early Action*, Berlin, Berliner Wissenschafts-Verlag.

Dr. Silvio Tschudi is Retrocession Manager at Allianz SE Reinsurance, Munich, Germany and Executive Board Member of the Munich Climate Insurance Initiative (MCII), Munich, Germany. One of his latest publications is: Warner, Koko, Sönke Kreft, Michel Zissener, Peter Höppe, Christoph Bals, Thomas Loster, Joanne Linnerooth-Bayer, Silvio Tschudi, Eugene Gurenko, Armin Haas, Simon Young, Paul Kovacs, Andrew Dlugolecki & Aaron Oxley, 2012, Insurance Solutions in the Context of Climate Change-related Loss and Damage: Needs, Gaps, and Roles of the Convention in Addressing Loss and Damage, Munich Climate Insurance Initiative (MCII) submission to the SBI Work Programme on Loss and Damage, October 2012, Policy Brief No. 6, Bonn, United Nations University Institute for Environment and Human Security (UNU-EHS).

Sanita van Wyk is a LLD Candidate in International Environmental Law at the Faculty of Law at the University of Stellenbosch, South Africa, where she was a Member of the Overarching Strategic Research and Outreach Project on Combating Poverty, Homelessness and Socio-Economic Vulnerability under the Constitution and served as an Administrative and Research Assistant in the Department of Public Law. Currently she is an Erasmus Mundus Scholar at Freie Universität Berlin, Germany. One of her latest

publications is: Ruppel, Oliver C. & Sanita van Wyk, 2011, Climate Change Induced Movement of Persons in Africa: Human Rights Responses to Aspects of Human Security?, *South African Journal of Environmental Law and Policy* 18, 49–64.

Nadia von Bassewitz works as a Consultant in the field of Competition Law for the International Institute for Advanced Economic Studies in Ghana, drafting regulatory instruments, undertaking studies, as well as organising training for various national and regional competition authorities in Africa. Previously, she was a Lecturer for International Business Law, WTO Law and Competition Law at the Polytechnic of Namibia as well as at the Law Faculty of the Addis Ababa University (Ethiopia). From 1998 to 2004 she served as a Consultant and Temporary Agent at the European Commission, General-Directorate Competition in Brussels, Belgium. One of her latest publications is: von Bassewitz, Nadia, 2013, International Climate Change Policy and Legislation: Where do we stand?, in: Ruppel, Oliver C. & Katharina Ruppel-Schlichting (Eds), *Environmental Law and Policy in Namibia. Towards Making Africa the Tree of Life* (Second Edition), Windhoek/Essen Orumbonde Press/Welwitschia Verlag Dr. A. Eckl, 311–358.

Prof. Dr. Gregg B. Walker is Professor of Communication and Member of the Faculties of Environmental Sciences, Forest Ecosystems and Society, Marine Resource Management, Public Policy, and Water Resource Management, and the Natural Resources Leadership Academy at the Oregon State University, United States of America. He is Co-director of the Climate Change Project for Mediators Beyond Borders International and Advisor and Facilitator with the National Collaboration Cadre of the US Forest Service. His latest publications include: Daniels, Steven E., Gregg B. Walker & Jens Emborg, 2012, The Unifying Negotiation Framework: A Model of Policy Discourse, *Conflict Resolution Quarterly* 30 (1), 1–14; Walker, Gregg B. & Steven E. Daniels, 2012, The Nature and Role of Agency Leadership: Building and Sustaining Collaboration in Natural Resource Management and Environmental Policy Decision-Making, in: Rigling Gallagher, Deborah (Ed.), *Environmental Leadership*, Thousand Oaks, CA, Sage.

Dr. Koko Warner is the Head of the Environmental Migration, Social Vulnerability, and Adaptation Section at the United Nations University, Institute for Environment and Human Security (UNU-EHS), Bonn, Germany. She is a Lead Author for the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), Working Group II and Founding Member

and Executive Board Member of the Munich Climate Insurance Initiative (MCII). Furthermore, she is the UNU focal point to the HLCP and the UN-FCCC, and the climate adaptation and the Nairobi Work Programme. Her recent publications include: Warner, Koko, 2012, Human Migration and Displacement in the Context of Adaptation to Climate Change: The Cancun Adaptation Framework and Potential for Future Action, *Environment and Planning C: Government and Policy* 30 (6), 1061–1077; Hill, Harvey, John Wiener & Koko Warner, 2012, From Fatalism to Resilience: Reducing Disaster Impacts Through Systematic Investments, *Disaster* 36 (2), 175–194.

Dr. Simon Young is the CEO of the Caribbean Risk Managers Ltd. and a Risk Management Consultant. One of his latest publications is: Young, Simon & Ekhsuehi Iyahan, 2009, Innovative Risk Transfer Options as Adaptation Strategies to Growing Hydro-Meteorological Risks in the Caribbean Basin, in: United Nations World Meteorological Organisation, *Climate Sense*, Leicester, Tudor Rose.

Michael Zissener is Research Associate at the United Nations University Institute for Environment and Human Security (UNU-EHS), Bonn, Germany with a focus on the Munich Climate Insurance Initiative (MCII). He helps managing and coordinating an implementation-focused project on disaster risk management, risk reduction (DRR), and risk transfer in the Caribbean. One of his latest publications is: Warner, Koko, Sönke Kreft, Michel Zissener, Peter Höppe, Christoph Bals, Thomas Loster, Joanne Linnerooth-Bayer, Silvio Tschudi, Eugene Gurenko, Armin Haas, Simon Young, Paul Kovacs, Andrew Dlugolecki & Aaron Oxley, 2012, Insurance Solutions in the Context of Climate Change-related Loss and Damage: Needs, Gaps, and Roles of the Convention in Addressing Loss and Damage, Munich Climate Insurance Initiative (MCII) submission to the SBI Work Programme on Loss and Damage, October 2012, Policy Brief No. 6, Bonn, United Nations University Institute for Environment and Human Security (UNU-EHS).