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## LOUIS KOTZÉ

THEME 1 | The Conceptual Landscape

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### ROLE & INSTITUTION | LOCATION

Research Professor of Law at North-West University | South Africa  
Program Chair (Governing the Planetary Commons) at THE NEW INSTITUTE |  
Hamburg, Germany

### SHORT BIO

Louis' research focuses on human rights, socio-ecological justice and environmental constitutionalism; law and the Anthropocene; and Earth system law. Alongside his academic commitments, he serves as the co-chair of the Earth System Governance Network's Scientific Steering Committee, is Assistant Editor of the journal Earth System Governance, a Senior Fellow of the Earth System Governance Network, and a member of the International Union for the Conservation of Nature (IUCN) Commission on Environmental Law.

### ABSTRACT | GOVERNING THE PLANETARY COMMONS: EXPLORING THE PROPOSAL, ITS CHALLENGES AND OPPORTUNITIES

In a 2023 publication, an inter-disciplinary group of scientists suggested the need for a new planetary governance paradigm for governing Earth's large biophysical systems that provide Earth system resilience and stability. They identified and defined a new category of "planetary commons" that are informed by the context of the Anthropocene and its planetary emergency. The basic proposal is that the planetary commons must safeguard critical Earth system functions that regulate the stability of the planet and that keep its resilience intact; create responsibilities and stewardship obligations to safeguard planetary resilience; avoid crossing tipping points; and ensure a just world for everyone, now and in future. In this general introduction, serving as a broader context for our discussions, I will explore this proposal and delve more deeply into its viability and the challenges and opportunities ensuing from it.

### READINGS

- Global Commons Alliance, Global Commons. Available at <https://globalcommonsalliance.org/global-commons/> (accessed 3 August 2022).
- O. Young, F. Schmidt, "Protecting the Global Commons: The Politics of Planetary Boundaries" in Routledge Handbook of the Study of the Commons, B. Hudson, J. Rosenbloom, D. Cole, Eds. (Routledge, Abingdon, UK, 2019), chap. 31,
- B. Hudson, J. Rosenbloom, [Uncommon approaches to commons problems: Nested governance commons and climate change](#). *Hastings Law Journal* 64, 1273-1342 (2013).
- F. Sultana, [The unbearable heaviness of climate coloniality](#). *Political Geography* 99, 102638 (2022).

## AFSHIN AKHTAR-KHAVARI

THEME 1 | **The Conceptual Landscape**

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### ROLE & INSTITUTION | LOCATION

Professor of International Law at the School of Law, Queensland University of Technology  
| Brisbane, Australia

### SHORT BIO

Afshin's research seeks to move the boundaries of environmental law's concerns and focus by critiquing and reimagining it for the benefit of non-human living beings and systems. His interdisciplinary approach to the law is influenced by reading science and technology, ethics, and international relations and political theory to understand non-human relationality, creativity, and ways that they experience reality. He is particularly interested in ideas and theories about science that push traditions in that discipline and the influence that this then has on developments in law and governance. At THE NEW INSTITUTE, Afshin is involved in the program "[Governing the Planetary Commons: A Focus on the Amazon.](#)"

### ABSTRACT | HARM AND COMMONS

The growing recognition of non-human entities as legal subjects has prompted a broader exploration of the concept of harming them. While the notion of the commons is not a novel concept in International Law, delving into it has the potential to reshape our perspective on individual species. My aim is to stimulate discussion on the intricate nature of relationality within our discussions about the commons. My aim is to enquire into harm, in the context of the commons, to expand how we think about what it means to harm and provide the foundations for the law to achieve more.

Initially, I considered categorizing the commons based on Earth Systems, those spanning territorial boundaries, and others than share specific biophysical environments, either within or across jurisdictions. However, I soon realized that any attempt to divide the commons would spark debate and hinder substantive discussions about the nature of harm itself. The commons, arguably, represents the scale at which we examine the dynamic forces that intertwine to create something novel. When we think relationally the focus of harm that I aim to address occurs at the level and scale of the commons, encompassing Earth Systems, the Pantanal wetlands for examples, and even the mutualistic relationship of a human centre and its mitochondria.

To me, relationality extends beyond the mere interaction of independent units of organised life encountering, colliding, or relating to one another. In a prior paper, I delved into the concepts of symbiosis within the realms of humanities and law. Similarly, scholars such as Latour, Haraway, and others have explored the intricate networks and co-creative essence of life, especially concerning the relationships between human and non-human social beings. These theories go beyond merely decentring human beings; they emphasise complex interconnections fostered by concepts like 'mutual ecologies' (Fuentes 2010), 'assemblages' (De Landa 2016, Latour 2005, Deleuze and Guattari 1987), and co-creative processes. Indigenous knowledge traditions arguably delve even further and deeper into

contemplating the relationality inherent in the natural world (e.g. Jessen et al. 2022; and Berkes 2018).

In legal discourse, the concept of harm is complex, being scrutinized at various levels – whether it pertains to individual humans, ecosystems, the Earth System, members of a species, or even entire species. Discussions on the rights of nature, for example, concentrate on harm by delving into the intrinsic values of species and ecosystems, such as rivers. In the realm of international law, both the preventive and also the transboundary harm principle aim to address and account for harm. Treaties and other instruments typically articulate the nature of protected or conserved areas that cannot be harmed. For instance, the *Ramsar Convention* outlines the harm protection strategies for wetlands of international significance. Venturing into other disciplines, such as green criminology, proves both productive and illuminating in revealing the limitations of our current perspectives. White, for instance, underscores the importance of context in identifying non-human victims deserving protection. He also points to the idea of shared victims such as those impacted by climate change. However, his conceptions of harm are less relational than what I am proposing that we think about.

Locating harm materially is more difficult when we approach it from the perspective of the commons. Environmental impact assessments for instance usually separate the objects of harm and don't focus on narratives that describe relations of things with one another. Time becomes critical because of the cumulative effects of harm. Earth systems are impacted not by anyone person pushing any beyond a tipping point. In this provocation, I want to think about harm, discuss how existing laws seek to deal with it, and explore theoretically important topics outside legal discourse. In particular I would like to discuss harm by situating as a commons problems and some of these questions may prompt deeper discussions with the topic:

- What does it mean to harm and is there a moral or ethical significance to harming non-humans?
- Are non-human beings all potentially embedded and co-productive of the commons?
- Can we create hierarchies amongst the commons and harm to them and if so on what grounds?
- Does the nature of harm change if we view it from the perspective of complexity, adaptiveness, and ecosystems and is that the same as thinking about it in terms of networks and assemblages.
- Can you focus on a single species and not the commons within which it is relationally embedded in?

#### READINGS

- Seana Valentine Shiffrin, "[Harm and Its Moral Significance](#)" *Legal Theory* 18 (2012) 357-398
- Rob White, "[Green victimology and non-human victims](#)" *International Review of Victimology* 24(2) (2018) 239-255.

## KAREN MORROW

THEME 2 | Theories, Knowledge Systems and Planetary Commons

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### ROLE & INSTITUTION | LOCATION

Professor of Environmental Law at the Hillary Rodham Clinton School of Law, Swansea University | Swansea, Wales.

### SHORT BIO

Karen's expertise lies in the theoretical and practical aspects of public participation in environmental law and policy and on gender and the environment. Over the years, her research has covered topics such as the governance challenges of the Anthropocene, climate change, the land-use planetary boundary, and issues around payment for ecosystem services. Karen will be a fellow of the program "[Governing the Planetary Commons: A Focus on the Amazon](#)" at THE NEW INSTITUTE starting in May 2024.

### ABSTRACT | DEVELOPING FUTURE-PROOF GOVERNANCE FOR SAFE OPERATING SPACES WITHIN ESBs: THE AMAZON AS A BELLWETHER

The term bellwether is, appropriately for present purposes originally derived from husbandry, but in its more general sense is a harbinger of things to come. Insofar as environmentally safe boundaries (ESBs) are concerned, the Amazon is a bellwether par excellence for both the multi-scalar environmental and social ills, that follow on business-as-usual activities and governance failures. It also offers an excellent space to engineer better solutions. The Amazon provides a test case for how to deliver novel, forward-looking just and equitable governance solutions that secure environmentally safe boundaries (ESBs) in the interest of humanity as a whole that pay their way for host nations. The recent revival of regional political cooperation for the Amazon region, coupled with advances in science and technology and manifest demand for verifiable benefits combine to make this the time when, not only must humanity engage with these issues – we have the capabilities required to do so.

### READINGS

- Gerard Delanty and Aurea Mota: '[Governing the Anthropocene: Agency, governance, knowledge](#)' *European Journal of Social Theory* 2017, Vol. 20(1) 9–38.
- Lucas de Oliveira Paes: '[The Amazon rainforest and the global–regional politics of ecosystem governance](#)' *International Affairs*, Volume 98, Issue 6, November 2022, Pages 2077–2097.
- Tollefson, J 2023, 'Scientists call out rogue emissions from China at global ozone summit', *Nature*, 26 October, accessed 9 November 2023, <https://www.nature.com/articles/d41586-023-03325-7>.
- Jordan, R 2021, 'Stanford researchers use AI to empower environmental regulators', *Stanford News*, 19 April, accessed 9 November 2023, <https://news.stanford.edu/2021/04/19/ai-empowers-environmental-regulators/>.

## JUAN AUZ

THEME 2 | Theories, Knowledge Systems and Planetary Commons

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### ROLE & INSTITUTION | LOCATION

Postdoctoral Researcher at Tilburg University Law School | Tilburg, Netherlands

### SHORT BIO

Juan is an Ecuadorian lawyer with a PhD from the Hertie School's Centre for Fundamental Rights in Berlin. Before this, he was an Alexander von Humboldt fellow at the Potsdam Institute for Climate Impact Research (PIK). His research lies at the junction of human rights and climate change law with a focus on Latin America. He previously worked for several years in Ecuador on indigenous peoples' rights in Amazonia as the co-founder of Terra Mater and Executive Director of Fundación Pachamama.

### ABSTRACT | RADICAL HEALING: A MANIFESTO IN THE CAPITALOCENE

In an era marked by the shadow of catastrophic thinking, our global narrative is often one of crises compounding crises, each with a violent aesthetic that is amplified through the collective gaze of millions on social media. This narrative breeds a sense of defeat, extinguishing the horizon of alternative futures and dampening the revolutionary spirit necessary for systemic change. It is within this context that capitalism, a relationship so naturalised and entrenched in our societal structures, escapes direct scrutiny for its central role in ecological degradation. Instead, the focus diverts to its most visible symptoms and the disasters it fuels, perpetuating a cycle of commodification and destruction. In the face of such pervasive defeatism, which construes global social organisation solely as a means to protect capital interests, how can we chart a course towards emancipation from historically entrenched oppression? How do we inspire governance that transcends the commodification of life itself? This impulse talk aims to pivot from catastrophic resignation towards a manifesto for action. It will dissect the ingrained roots of ecological devastation and posit a transformative framework centred on the commons as a site of planetary healing. Through this lens, we will explore how to reimagine global governance not as a guardian of capital but as a steward of planetary wellbeing, thus laying the groundwork for a radical healing of our world. By offering tangible examples and delineating a pathway towards the manifestation of emancipatory desires, this talk will not only critique the status quo but also offer a hopeful vision for a restructured global society attuned to ecological harmony and justice.

### READINGS

- Moore JW, '[Anthropocene, Capitalocene & the Flight from World History: Dialectical Universalism & the Geographies of Class Power in the Capitalist World-Ecology, 1492-2022](#)' (2022) 51 Nordia Geographical Publications 123.
- Sultana F, '[The Unbearable Heaviness of Climate Coloniality](#)' [2022] Political Geography 102638.
- Natarajan U, '[Environmental Justice in the Global South](#)' in Carmen G Gonzalez, Sara L Seck and Sumudu A Atapattu (eds), *The Cambridge Handbook of Environmental Justice and Sustainable Development* (Cambridge University Press 2021).

## LAURA MAI

THEME 2 | Theories, Knowledge Systems and Planetary Commons

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### ROLE & INSTITUTION | LOCATION

Postdoctoral Researcher within the [Constitutionalizing in the Anthropocene](#) project at the Department of Public Law and Governance at Tilburg University | Tilburg, Netherlands

### SHORT BIO

Laura's research interests cover the areas of climate change law (specifically the Paris Agreement), the "Anthropocene" and its import on legal scholarship and praxis, legal multiplicity, transformation thinking; and socio-legal theory and methods. In her doctoral thesis, Laura investigated how local administrations and financial institutions have become enrolled in the processes of change which are necessary to reach the goals set out in the 2015 Paris Agreement on climate change. In her current research, Laura investigates how ways of thinking and doing law are becoming reconfigured under conditions of the unfolding climate crisis.

### ABSTRACT | RECONSTRUCTING 'ANTHROPOCENE' CRISES AS GOVERNANCE OBJECTS: IN / AS / FROM PLACE

How we construct what we set out to govern matters a great deal: it defines what is perceived to constitute the problem and, by consequence, how one might respond. Take for instance climate change – a crisis that epitomises the 'Anthropocene'. It has, traditionally, been constructed as a global problem that requires global solutions. Yet, as human geographer Mike Hulme (2016) notes, climatic changes affect local environments, and it is these impacts that affect social values and structures, cultural practices and ideas, economic priorities and rationales with attendant political and legal implications.

**How are 'Anthropocene' crises constructed as 'objects of governance' (Allan 2017) – as things to be managed through deliberate legal and political interventions? And in what ways might attempts to reconstruct these crises as governance objects open up possibilities for alternative responses?**

Involved in the construction of governance objects are deeply embedded beliefs about the adequacy of certain forms of sensing and sense-making, and perceived possibilities for political and legal action (Mai forthcoming). Sketching what would happen if we began to attend to Anthropocene crises 'in' place, 'as' place, and 'from' place, this impulse talk aims to unsettle assumptions about the location, scale and nature of Anthropocene crises to which the proposal for a planetary commons governance framework seeks to respond. In **methodological registers**, attending to **Anthropocene crises in place** requires enplaced research designs and methods. Rather than abstract theorizing and distant modelling, attending to Anthropocene crises in place demands close up, lively, and thick descriptions of how concrete sites, practices and encounters produce Anthropocene crises and how, in turn, sites, practices and encounters are shaped by these crises (Mai and van Oorschot 2022).

In a **conceptual register**, attending to **Anthropocene crises as place** means focusing not (only) on global or planetary scales, in terms of effects and political and legal institutions. Instead, attending to Anthropocene crises as place foregrounds how crises have been, and how they are continuously being, (re-)distributed across places. Accordingly, rather than locating crises as stable governance objects at global or planetary levels, the notion of place demands a reconstruction of crises as processes which historically and dynamically connect scales and locations.

In an **epistemic register**, attending to **Anthropocene crises from place** means giving resonance to lived experience and expertise, acknowledging the 'situatedness' of knowledges (Haraway 1988). This unsettles deeply held assumptions about the universality and objectivity of certain modes of knowledge-making. Suggesting the notion of place as an alternative spatial trope through which to make sense of Anthropocene crises, this impulse talk seeks to foreground what is at stake when calling for the governance of planetary commons. Which forms of knowing, whose experiences, and which political and legal possibilities are centred, and which risk being marginalized? The provocation that this impulse talk, ultimately, poses to workshop participants is whether attending to Anthropocene crises in / as / from place might help to construct planetary commons as alternative governance objects that are attuned to specific dimensions of justice, specifically those relating to recognition, distribution and epistemic inclusion.

#### READINGS

- Allan, B. (2017). '[Producing the Climate: States, Scientists, and the Constitution of Global Governance Objects](#)' *International Organization*.
- Haraway, D. (1988). '[Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective](#)' *Feminist Studies*.
- Hulme, M. (2016). *[Weathered: Cultures of Climate](#)*. Sage.
- Mai L. (forthcoming). '[Measuring it, Managing it, Fixing it? Data and Rights in Transnational and Local Climate Change Governance](#)' *Transnational Environmental Law*.
- Mai, L. and van Oorschot, I. (2022). '[Laws and Times in Anthropocene Environments](#)'.



## SIMON MEISCH

THEME 2 | Theories, Knowledge Systems and Planetary Commons

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### ROLE & INSTITUTION | LOCATION

Senior Lecturer for Interdisciplinary Ethics at the [International Center for Ethics in the Sciences and Humanities \(IZEW\)](#) at the University of Tübingen | Tübingen, Germany

### SHORT BIO

Simon Meisch is responsible for coordinating the interdisciplinary ethics teaching at the IZEW. He studied political science and modern German literature at the Universities of Tübingen (Germany) and Edinburgh (Scotland) and wrote his doctorate in political science. After graduating, he worked at the IZEW, the Institute for Advanced Sustainability Studies (IASS, Potsdam, Germany) and the Centre for the Study of the Sciences and the Humanities (SVT, University of Bergen, Norway) on ethical and epistemological questions. His areas of expertise include approaches and methods of application-oriented ethics; didactics of ethics; concepts and conceptions of sustainable development; the role of the humanities in the discourse on sustainable development; education for sustainable development and peace; environmental humanities; post-normal science; water research and water governance; and conceptions of water security and fairness.

### ABSTRACT | THE ETHICS OF PLANETARY BOUNDARIES

Since being introduced in 2009, the notion of planetary boundaries (PB) has become a key reference point in assessments of Earth's current state and future trajectory. It has been contested, refined, and updated as its central normative claim has solidified around the need to preserve a »safe operating space« for humanity across nine PB. Meanwhile, it figures prominently to link Earth system sciences to global political agendas like the Sustainable Development Goals (SDG). Despite its academic and political omnipresence, the PB framework has yet received little ethical attention. In my presentation, I will present some insights into the results of the project »Earth System Ethics: Unravelling the Planetary Boundaries« (together with Prof Jeremy J. Schmidt, Ph.D., University of Durham, UK) which stepped in to examine connections among sciences and societies; complex and often violent histories that underpin accelerating human impacts on the planet; and the obligations at stake in discussions of competing futures. From there, I will discuss some ethical issues arising for making »Global Commons« governable.

### READINGS

- Düwell, Marcus; Bos, Gerhard & van Steenbergen, Naomi (2018): [Towards the Ethics of a Green Future. The Theory and Practice of Human Rights for Future People](#). London: Routledge. OA.
- Ostrom, Elinor; et al. (2017): [Revisiting the Commons. Local Lessons, Global Challenges](#). In: Schlottmann, Christopher; et al. New York: New York University Press, pp. 213-225.
- Schmidt, Jeremy J. (2019): [The moral geography of the Earth system](#). In: Transactions of the Institute of British Geographers 44(4): 721-734.

## ESTHER TURNHOUT

THEME 2 | Theories, Knowledge Systems and Planetary Commons

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### ROLE & INSTITUTION | LOCATION

Full Professor and Chair in Science, Technology and Society at the University of Twente | Enschede, Netherlands

### SHORT BIO

Esther is an interdisciplinary social scientist with expertise in science and technology studies, environmental studies and political science. Her research and teaching focus on the interactions between science and lay, Indigenous and local knowledge systems, and on policy and governance for biodiversity and sustainability transformations. She is a selected expert and author for the IPBES, an expert member of the RLI commissie Herijking Natuurbeleid, the editor in chief of the journal Environmental Science & Policy, and a board member of the Endangered Landscapes program.

### ABSTRACT | COMMONING DIFFRACTED WORLDS

There is increasing recognition that transforming dominant political-economic systems and paradigms is needed to secure a liveable planet for humans and nature. This message is communicated powerfully by global science organizations such as the IPCC and IPBES, as well as policy fora including the CBD and the UNFCCC. Most calls for transformation evoke a single planet inhabited by a global we. This is illustrated by various expressions by the secretary general of the UN Antonio Guterres including: 'humanity has opened the gates to hell', 'we have no time to lose', 'we must make peace with nature', and 'humanity must act together'. This is understandable for a representative of multilateralism; a system that is based on global cooperation between nation states. But it is also deeply problematic, particularly in the context of transformative change. In this brief talk, I will discuss the role of science in the constitution of a knowable and governable singular planet and how it obstructs transformative change. I will also discuss the concept of the commons as a way to potentially unsettle the idea of knowability, and singularity, and transform environmental science.

### READINGS

- Turnhout, E. & Lahsen, M. (2022): [Transforming environmental research to avoid tragedy](#), *Climate and Development*, 14(9): 834-838.
- Turnhout, E., Dewulf, A., & Hulme, M. (2016): [What does policy-relevant global environmental knowledge do? The cases of climate and biodiversity](#), *Current Opinion in Environmental Sustainability*, 18: 65-72.

## SABAA KHAN

THEME 3 | Scaling Up, Scaling Down: From Urban to Global Planetary  
Commons Governance

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### ROLE & INSTITUTION | LOCATION

Director-General (Québec & Atlantic Canada) & Climate Program Director of the David Suzuki Foundation | Canada

### SHORT BIO

Sabaa is an international environmental and trade lawyer with expertise in international environmental law, trade law, multilateral environmental agreements, international labour law, human rights, chemicals and waste legislation, pharmaceutical pollution regulation, Arctic cooperation and governance. She is an attorney member of the Quebec Bar, member of the Labour Law and Development Research Laboratory, as well as former member of the Center for Climate Change, Energy and Environmental Law (Joensuu, Finland).

### ABSTRACT | DISMANTLING STATIST VISIONS FOR HUMANKIND

*Does the law exist for the purpose of furthering the ambitions of those who have sworn to uphold the law, or is it seriously to be considered as a moral, unifying force, the health and strength of a nation?* - James Baldwin

We know that the rule of law (and governance) unchecked has prevalently served to codify the interests of the powerful, and to legitimize norms, principles and practices in such a way as to privilege hegemonic order over justice. As such, the transformational promise of *planetary commons governance* rests almost entirely on freeing it from the confines of post 16<sup>th</sup> century western legal thinking, law-making and ‘governing’ of nature. In order for governance to be meaningful, visionary, and truly emancipatory, it must also remove the primacy of the State as the central authoritative actor of multilateralism and global cooperation.

Using the example of the evolution of global cooperation on climate change (under the UNFCCC and the UN Security Council), I argue that under the statist vision, commercial and military interests have always, and will continue to, override common concern for humankind, intergenerational equity, natural kinships, and the universal realization of human rights, including Indigenous rights. Climate governance should not be confounded with climate justice on the ground. This observation leads to the question of where to find inspiration for anti-formalist, or non-state-centered, legal innovation? Here I argue that there is a need to scale up the invisible (voices, places and habitats who have traditionally been excluded from global governance) and scale down the state.

I provide the very few examples of global institutions and processes where this scaling up of the invisible has happened, or is happening - to a certain extent - (the International Labour Organization, the Inuit Circumpolar Council, the Beyond Oil and Gas Alliance, the Fossil Fuel Non-proliferation Treaty), to show that planetary commons governance must be founded on infusing new human agencies in multilateralism, re-appropriating the

statist domain of 'law and governance' as a collective craft of worldmaking based not on state sovereignty, but on fostering relations of justice between states and peoples, for all of humanity. In fact, the principle of sovereignty that gives states their 'sweeping power and rights', including a monopoly over the use of force in their territories, rests on a particular foundational understanding of the relationship between states and peoples - that contemporary states represent the political authority of their territorial 'peoples', that these states share a universal commitment to upholding the rule of law, strengthening universal peace, respecting human rights and protecting the right to self-determination. The challenge is – how can we, in the praxis of governance, assert that it is peoples and not states that are the root constituents of sovereignty and the international community?

#### READINGS

- Khan, S. (2018). [Struggles and actions for legal space in the urban world: the case of informal economy e-waste workers](#). *Canadian Journal of Law & Society*, 33(2), 115-136.
- Khan, S. A. (2020). "[Chapter 5 Legally Sculpting a Melting Arctic: States, Indigenous Peoples and Justice in Multilateralism](#)". In *Changing Actors in International Law*. Leiden, Nederlande: Brill | Nijhoff.

## ISABEL FEICHTNER

THEME 3 | Scaling Up, Scaling Down: From Urban to Global Planetary  
Commons Governance

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### ROLE & INSTITUTION | LOCATION

Professor of Public Law and International Economic Law at the University of Würzburg |  
Würzburg, Germany  
Program Chair (Reclaiming Common Wealth) at THE NEW INSTITUTE | Hamburg,  
Germany

### SHORT BIO

Isabel's research interests cover the distributive effects of law, the democratization of society, and the law of the commons and commoning. She explores how institutional experiments, e.g., the redesign of money or Commons Public Partnerships, can support social-ecological transformation through democratization and commoning. Isabel founded the [Law Clinic Transformation Law](#) at Würzburg University. At THE NEW INSTITUTE, Isabel is the Program Chair for [Reclaiming Common Wealth](#).

### ABSTRACT | PLANETARY LAW AGAINST THE PLUNDERING OF THE OCEAN AND TO RECLAIM THE DEEP SEABED AS COMMON HERITAGE?

The presentation asks whether the International Seabed Authority that was created by the United Nations Convention on the Law of the Sea may become a site of planetary politics for the protection of a global commons. This question will be placed in the context of critical debates on the international legal regime of the deep seabed and its minerals and current political initiatives for a moratorium on deep seabed mining.

### READINGS

- M. Bedjaoui, [Towards a new international economic order](#), 1979, pp. 212-240.
- R. P. Anand, '[Common Heritage of Mankind: Mutilation of an Ideal](#)', in R. P. Anand, *Studies in International Law and History* (Leiden: Martinus Nijhoff, 2004) 180.
- K. Mickelson, '[Common Heritage of Mankind as a Limit to Exploitation of the Global Commons](#)' (2019) 30 *European Journal Of International Law* 635-663.
- [Pacific Parliamentarian Alliance on Deep Sea Mining](#).
- I Feichtner, [Reconstituting the Seabed as a Global Commons: What would it take?](#) [podcast episode] in: *Appropriate – the podcast* (part II of the "Global Commons" series (2023, 19 January)).

## CÉSAR RODRÍGUEZ-GARAVITO

THEME 1 | The Conceptual Landscape

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### ROLE & INSTITUTION | LOCATION

Professor of Clinical Law; Chair of the Center for Human Rights and Global Justice at NYU School of Law | New York, US

### SHORT BIO

César is a human rights and environmental justice scholar and practitioner whose work focuses on global governance, climate change, socioeconomic rights, business and human rights, Indigenous peoples' rights, and the human rights movement. He is the Founding Director of the Earth Rights Advocacy Clinic and Future of Human Rights Governance Program, the Climate Litigation Accelerator, and the More Than Human Rights (MOTH) project at NYU Law. He has been an expert witness of the Inter-American Court of Human Rights, an Adjunct Judge of the Constitutional Court of Colombia, a member of the Science Panel for the Amazon and a lead litigator in climate change, socioeconomic rights and Indigenous rights cases.

### ABSTRACT | MORE-THAN-HUMAN RIGHTS: THE ROLE OF MULTISPECIES RIGHTS IN PLANETARY COMMONS GOVERNANCE

*Note to workshop participants: My contribution to our conversation will draw on my ongoing work on what I call “more-than-human (MOTH) rights.” I will suggest some ways in which MOTH rights may contribute to the planetary commons framework as well as the governance of planetary commons, with an emphasis on the Amazon region. Below is an extract from a book chapter that lays out the concept of MOTH rights. The full chapter, which serves as an introduction to a forthcoming collective volume, is attached. I look forward to our conversations.*

Like all human artifacts, human rights are a product of their time. But precisely what time is that? In terms of the relatively short-term frame of law and the social sciences that dominate human rights studies and practice, the era of rights spans a few centuries or a few decades, depending on the specific meaning of rights we are interested in. As a moral and political framework, human rights are a product of liberal modernity, with the late eighteenth-century French and US declarations of rights serving as its original linchpins. In the more contemporary understanding of human rights—as a global legal project anchored in an institutional architecture of rights-protecting international treaties and national constitutions promoted by transnational advocacy networks—they are a product of the second half of the twentieth century, a response to the atrocities of World War II and the postwar global order. Starting with the 1948 United Nations (UN) Universal Declaration of Human Rights, the actors, norms, and causes of this transnational human rights project proliferated apace throughout the remainder of the century.

The twenty-first century not only upended the dominance of the post-World War II world order but also jolted humanity into a longer-term perspective. First the climate emergency and then a global pandemic reminded us that human beings exist within a

vaster web of life and that societies are contained in and dependent upon a biosphere whose history is measured in millions of years as opposed to decades or centuries. From this much longer, “deep-time” perspective the brief history and the uncertain future of the human rights project can be viewed in a new light. In this chapter, I will argue that one of the most fruitful and potentially transformative challenges to the contemporary human rights project can be found precisely in recent contributions from disciplines that have trained their sights on deep time and the unity of the web of life. To use novelist Richard Powers’s eloquent term, these “humbling sciences”—ecology, botany, ethology, mycology, microbiology, geology, chemistry, and other natural sciences—are effectively blurring the categorical distinction between humans and nonhumans, as well as challenging the anthropocentrism and human supremacism that has dominated fields like human rights. In so doing, they are joining the much older claims of Indigenous cultures that are based on the inseparability of humans and nature and are couched in a “grammar of animacy” that recognizes human and nonhuman life and agency alike.

In focusing on the ongoing debate on the rights of nature, I make a case for restoring the etymological connection between the “human” in human rights and its cognate words—“humbling,” “humility,” and “humus,” all derived from the proto-Indo-European root that means “earth.” Unbeknownst to human rights thinkers and practitioners who view the idea of rights of nature with deep skepticism, the concept of “earth rights” can be seen as nothing but a restoration of the literal meaning of human rights. Appreciating the challenge and the potential of the humbling sciences and Indigenous knowledge for the continued relevance of the human rights project also entails adopting a time horizon that is in sync with that of the Earth. Interestingly, the human rights project’s lifespan overlaps almost perfectly with a new epoch of Earth’s history: the Anthropocene, the period defined by humans as the planetary force capable of driving themselves and other species into extinction.

Here is the paradox of the Anthropocene: if we are to reverse the ecological emergencies that are the signature of our times, our best hope lies in forms of knowledge and practice capable of overturning the anthropocentrism that is evident in the very name of this epoch. In the same vein, if the human rights project is to remain relevant in the Anthropocene, it needs to take seriously the rights of nonhumans. There is a long way to go. Human rights thought and practice remain firmly anthropocentric. Although the rights of animals, rivers, forests, and other ecosystems have been recognized in a growing number of legal norms and judicial rulings, mainstream legal approaches continue to view the rights of nature with indifference at best and suspicion at worst. Just as human rights actors were slow to recognize climate change as a rights issue, leading thinkers and organizations in the field have yet to take seriously the wealth of ideas, initiatives, and emerging practices on rights of nature that scholars, practitioners, Indigenous peoples, and social movements are advancing around the world. As a result, the notion of rights of nature continues to be relatively marginal, despite its potential to address the conceptual shortfalls of legal anthropocentrism as well as the practical challenges of the climate, biodiversity, and pollution crises.

The goal of this chapter, and the collective project that it frames, is to offer concepts, legal doctrines, and advocacy strategies that update the human rights project to the conditions of the Anthropocene. Building on David Abram’s invitation to expand our sensorial and moral horizon and see ourselves again as part of the “more-than-human world,” the provocation of this article is to locate rights in the more-than-human (MOTH) world. I

call this project MOTH rights. Among the questions guiding the MOTH rights project are: What theoretical and legal approaches can solidify the foundations of the rights of nature? How do findings from the natural sciences, Indigenous knowledge, and other fields shed new light on the idea of the rights of nature? What types of nonhuman entities should be protected? What types of rights should they be recognized as holding? What are the lessons from existing legislation, constitutional provisions, and lawsuits that embrace this notion? How are social movements, policymakers, judges, and other actors disrupting human rights' anthropocentric framework and institutional architecture? More broadly, as Will Kymlicka has asked, how could we conceive of "human rights without human supremacism"?

Rather than providing answers to these questions, in this chapter I seek to provide a framework for a collective effort to address them. Since MOTH rights are a largely uncharted territory, I aim to sketch a high-level map of it that identifies the main axes and coordinates of this emerging field—as well as the perspective that I propose in putting together this book and the collective project that underlies it. Detailed, small-scale maps of specific institutions or strategies would require long-term, collective work, which the MOTH project seeks to promote. More immediately, this chapter serves as frame for this collective volume, which originated in the first two conferences of the MOTH project. The conferences were convened by New York School of Law's Earth Rights Advocacy program and took place in Tarrytown, New York, in September 2022 and in Curarrehue, Chile, in October 2023. Thus, I will weave other chapters into this introduction by referencing their respective authors.

I identify three major lines that need to be pursued by the MOTH rights field. First, the conceptual foundations of MOTH rights need to be strengthened through interdisciplinary engagement with contributions from the natural sciences, moral philosophy, Indigenous knowledge, legal theory, and other fields. Second, legal doctrines and institutions need to be created or refined that address complex legal issues, such as who among nonhumans qualifies as a rights-bearer, who speaks for nonhumans before the law, what the rights of nonhumans are, and how to effectively implement them. Third, advocacy strategies and tactics need to be fine-tuned in order to advance the promise and address the risks of a MOTH rights framework for the protection of humans and nonhumans alike.

#### READINGS

- Rodríguez-Garavito, C. (2023). "[Climatizing Human Rights: Economic and Social Rights for the Anthropocene](#)". New York University School of Law. Unedited draft version. Forthcoming in Katherine Young & Malcolm Langford, *Oxford Handbook of Economic and Social Rights* (Oxford Univ. Press).
- Rodríguez-Garavito, C. (2023). "More-than-Human Rights: Mapping Foundations, Legal Approaches, and Advocacy Tools". Draft version. Forthcoming in C. Rodríguez-Garavito, ed. *More-Than-Human Rights*.



## NIKO SOININEN

THEME 4 | International law and the planetary commons

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### ROLE & INSTITUTION | LOCATION

Professor of Environmental Law at the University of Eastern Finland Law School and Center for Climate Change, Energy, and Environmental Law | Kuopio, Finland

### SHORT BIO

Niko is a specialist in water law, marine environmental law, and nature conservation law on international, EU, and national levels alike. His research focuses on the role of law in complex sustainability transformation. Outside of academia, Niko has worked as a consultant for HELCOM, the World Bank, and for several ministries responsible for implementing marine environmental-, water- and nature conservation law in Finland.

### ABSTRACT | PANARCHY OF THE GLOBAL LEGAL SYSTEM FOR PROTECTING THE PLANETARY COMMONS

Global commons comprising the atmosphere (climate), the hydrosphere (water and oceans), the geosphere (solid earth), the cryosphere (water in solid form) and the biosphere (all life) constitute the Earth's shared resources. These global commons are going through unprecedented change with diminishing co-benefits for humans and nature. The deterioration of the global commons is the direct consequence of humanity's overuse of space and natural resources. Interestingly, the global science panels, such as IPBES, point to a considerable role of the global legal system in facilitating the overuse of space and resources and loss of co-benefits. At present, law is part of the problem rather than the solution. Changing the complex global legal system, however, escapes clear-cut legal instrumental fixes. A key paradox in making a change in the global legal system is that while the global community has sufficient spatial coverage to govern the global commons, it lacks the capacity to dictate global legal change. And while states hold the capacity to change the law (or at least legal instruments in their respective areas), they lack global outreach.

In this presentation, I turn to social-ecological panarchy theory to explore whether the theory can be applied to better understand the functioning of the complex global legal system. In essence, panarchy theory offers a theory of change for understanding coupled social-ecological systems (e.g., a community of people operating in a river-basin at a certain time) at various levels of organization (local to state to global). The theory tracks the resistance, adaptation, and transformation dynamics of such coupled systems. Rather than to study law in its social-ecological context (system that law seeks to govern), I explore whether the theory can be applied to the global legal system itself (system of governance). My argument is that panarchy theory offers a valuable multi-level and multi-temporal understanding of the global legal system which can be used to map potential points of change in the system and re-imagine the roles for international, regional, and national legal actors for protecting the planetary commons.

### READINGS

- J.B. Ruhl (2012) '[Panarchy and the Law](#)', 17 Ecology and Society.

- Ahjond Garmestani et al. (2019) '[Untapped capacity for resilience in environmental law](#)' 116(40) PNAS.
- Amy Fallon (2022) '[Bringing resilience-thinking into water governance: Two illustrative case studies from South Africa and Cambodia](#)' 75 Global Environmental Change.

## FREDERIC HANUSCH

THEME 5 | Institutions for planetary commons governance

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### ROLE & INSTITUTION | LOCATION

Panel on Planetary Thinking, Justus Liebig University Giessen | Giessen, Germany

### SHORT BIO

Frederic is co-founder and scientific manager of the “Panel on Planetary Thinking” at Giessen University and co-convenor of the Earth System Governance Project’s Working Group on Democracy. His research revolves around the intersections of democracy and planetary change. Frederic is currently working on the book “The Politics of Deep Time” which explores how planetary temporalities can be politically institutionalized, and the book “The Planetary Condition” which develops the notion of an emerging planetary paradigm. At THE NEW INSTITUTE Frederic is involved in the program [The Future of Democracy](#) and pursues a project on “Planetary Democracy”.

### ABSTRACT | A DEEP-TIME OBSERVATORY FOR PLANETARY COMMONS

Human societies increasingly interact with processes on a geological or even cosmic timescale. Despite this recognition, we still lack a basic understanding of these interconnections and how they translate into politics. This is where my proposal for a deep-time observatory comes in. A deep-time observatory can function as a competence center for deep-time literacy in the here and now, which might benefit not only decision-makers but all human and more-than-human societies. The observatory thus provides the foundations for identifying and protecting a subset of planetary commons, namely deep-time commons – understood as resources, spaces, or knowledge that exist and function within a geological or cosmic timescale and are shared by multiple entities, including human and nonhuman actors. In this manner, deep-time commons refer to a resource or feature of the planet that develops within geological or cosmic timescales, has existed over a long period of time, and will continue to exist and interact with multiple generations. This may not only be a fruitful soil as the Black Belt, but also a geological formation, such as a mountain or canyon, which has existed for millions of years and is interfering with human societies, possibly also being valued for its beauty and cultural significance. Another example is a body of water, such as a river or lake, which has hosted human communities and ecosystems for centuries or even millennia. In my talk, I’ll provide the reasoning for deep-time observatory, and investigate its potential institutional design.

### READINGS

- Hanusch, F. (2023). [The Politics of Deep Time](#) (Elements in Earth System Governance). Cambridge: Cambridge University Press.

## EMILLE BOULOT

THEME 5 | Institutions for planetary commons governance

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### ROLE & INSTITUTION | LOCATION

Lecturer at the Faculty of Law at University of Tasmania | Tasmania, Australia

### SHORT BIO

Emille is an Australian lawyer with experience as a legal researcher and policy expert in environmental law and governance, international law, water law, natural resources, legal theory, regulatory studies, and political ecology. Her work examines the practice and governance arrangements of ecological restoration with an interest in understanding how our legal systems and processes could better interact with and reflect our natural systems to result in a more ecologically informed environmental law and governance. Emille is currently a Lecturer in Law at the University of Tasmania and involved as a visiting fellow in the program "[Governing the Planetary Commons: A Focus on the Amazon](#)" at THE NEW INSTITUTE.

### ABSTRACT | RESISTING THE ENCLOSURE OF THE PLANETARY COMMONS: POST-HUMAN PERSPECTIVES IN THE DESIGN OF INTERNATIONAL GOVERNANCE INSTITUTIONS

Much of the thinking about the governance of the planetary commons has focused on developing more coordinated, polycentric, democratic, and participatory institutions. However, as critical international lawyers have identified, a critical challenge remains in overcoming the persistent anthropocentrism and coloniality that continues to permeate international environmental law. This presentation endeavours to elucidate the inherent tensions within prevailing universal governance paradigms, but also to consider transformative commons governance through employing a posthuman lens.

Posthumanism and its application in legal theory, seeks to dismantle hierarchies between humans (such as race, gender, and class) as well as between the human and non-human to escape the subject-object binary so prevalent within legal onto-epistemologies. As Indigenous, feminist, and materialist scholars have argued, the 'human' has always come about through entanglement, relationality and interdependence with other beings and matter. 'We' are what de la Cadena calls, a 'complex we': 'a shared condition from which "self" and "other" emerge relationally as intra-acted assertions of divergence'. In this sense, we are both 'us' and also 'them'.

Despite noteworthy scholarship on this topic, legal responses to global commons governance largely continues to regulate the 'human' use of an external passive and agentless 'natural world'. These approaches largely specify permissible harm rather than encouraging responsible relations between beings. This modernist approach is deeply entwined with global systems of extraction and neoliberalism. By positing a post-human perspective of global governance, I hope to spark a conversation about pathways out of practices of enclosure and untenable legalities to sustaining relations of reciprocity between the human and non-human.

READINGS

- Usha Natarajan and Kishan Khoday (2014). [Locating Nature: Making and Unmaking International Law](#). *Leiden Journal of International Law*, 27(3), 573-593. doi:10.1017/S0922156514000211
- Emily Jones (2021) '[Posthuman international law and the rights of nature](#)', *Journal of Human Rights and Environment*, 12(0), 76-101.
- Emille Boulot and Joshua Sterlin (2022). [Steps Towards a Legal Ontological Turn: Proposals for Law's Place beyond the Human](#). *Transnational Environmental Law*, 11(1), 13-38. doi:10.1017/S2047102521000145

## RAK KIM

THEME 5 | Institutions for planetary commons governance

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### ROLE & INSTITUTION | LOCATION

Associate Professor of Global Environmental Governance at the [Copernicus Institute of Sustainable Development](#) at Utrecht University | Utrecht, Netherlands

### SHORT BIO

Rak is an interdisciplinary social scientist at the intersection of global environmental governance and international environmental law whose research interests include exploring the structural complexities of global governance, with a focus on international regimes, agreements, and organizations as its key institutional building blocks. At the Copernicus Institute, he co-leads the [Special Interest Group on Network Analysis for Sustainability](#) and directs a five-year research programme on the complex dynamics of 'problem shifting' between international environmental treaty regimes. He is also a Senior Research Fellow at the [Earth System Governance Project](#), where he co-leads the [Task Force on Earth System Law](#), the [Working Group on Earth-Space Governance](#), and a [research cluster](#) of the [Task Force on Ocean Governance](#).

### ABSTRACT | TOWARDS AN INSTITUTIONAL ARCHITECTURE FOR PLANETARY COMMONS GOVERNANCE

This study aims to introduce an innovative institutional model specifically designed for the governance of planetary commons. Theoretically, I will build on the existing literature on governing complexity, with a particular focus on the application of complex adaptive systems as a governance paradigm. Empirically, the approach involves: (1) identifying the unique challenges of governing planetary commons compared to other global issues; (2) evaluating the suitability of current global governance models within international environmental institutions; and (3) extracting insights from successful examples of governing complexity on smaller scales. These steps will serve as the basis for a novel institutional architecture for planetary commons. The study will conclude with considerations on how such an Earth System governance framework might be realised.

### READINGS

- Kim, R.E. 2022. [Taming Gaia 2.0: Earth System Law in the Ruptured Anthropocene](#). *The Anthropocene Review*, 9(3): 411-424.
- Mitchell, R.B., Andonova, L.B., Axelrod, M., Balsiger, J., Bernauer, T., Green, J.F., Hollway, J., Kim, R.E., and Morin, J.F. 2020. [What We Know \(and Could Know\) about International Environmental Agreements](#). *Global Environmental Politics*, 20: 103-121.
- Kim, R.E. and Mackey, B. 2014. [International Environmental Law as a Complex Adaptive System](#). *International Environmental Agreements: Politics, Law and Economics*, 14: 5-24.