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The legal status of IPCC reports

- The principle of fair hearing and due process
- “No court of law could possibly deviate from IPCC findings since any expertise put before the court would never be as inclusive as that inherent in the IPCC. ”
- High Court of Justice of England

Dimmock v Secretary of State for Education and Skills

IPCC climate science

100% certainty

- that Earth is warming since the industrial revolution
- that CO₂ has increased due to mankind

95% certainty:

- that man made CO₂ is the cause of the warming

90% certainty

- that all regions will be adversely affected with a rise of 2°C
- that warming until today is 0.8 degrees Celsius (6%)

Observations

At current 0,8 degrees celsius

- 75% of North Pole summer ice disappeared in last 30 years
- Greenland: melting ice everywhere in 2012
- Increase in wheather extremities on land with factor 25 since 1960

Inertia of climate system and society

- Emissions till 1980 → current warming effect
- Emissions 1980 till today → unavoidable extra warming
- Emissions till end of transformation → unavoidable warming

This inertia has legal relevance

2°C = Dangerous climate change

the maximum acceptable risk level for society

1. Dangerous extent of increase of

- Sea level rise
- Loss of biodiversity
- Degredation of ecosystems
- Infectious diseases, heat stress, summer smog
- Extreme weather events, wild fires
- Loss of food and water supplies
- Inhabitability of regions
- Migration of people and (inter)national security issues

2. Danger of tipping points

On our way to 6°C

2010 2°C = dangerous climate change as defined in UN Climate Treaty

2012 World bank, IEA, IPCC, PWC: we are heading towards 4-6°C

2013 IMF managing director Christine Lagarde (WEF Davos):

“ Unless we take action on climate change, future generations will be roasted, toasted, fried and grilled.”



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“climate change represents an urgent and potentially irreversible threat to human societies

...climate change related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights, inter alia the right to life.”



“emissions of greenhouse gases are amongst the main causes of climate change...”

It should be noted that climate policy is also designed to protect the health and life of humans...”



“A reduction in domestic emissions would slow the pace of global emissions increases, no matter what happens elsewhere.”

Note: this is in accordance with the 1992 climate treaty in which countries have accepted an individual responsibility to take precautionary measures

Massachusetts vs EPA (US Supreme Court)

- “The harms associated with climate change are serious and well recognized.”
- “The risk of catastrophic harm, though remote, is nevertheless real.”
- “Epa’s steadfast refusal to regulate greenhouse gas emissions presents a risk of harm to Massachusetts that is both “actual” and “imminent.”

The legal duty of care

More or less universal criteria for the reasonable man standard, the standard of an average careful person duly balancing risk and care.

1. How apparent is the danger (2°C is apparent: scientific +political)
2. How great is the change that danger will manifest itself (heading for 4-6°C)
3. How serious is the danger (EPA: risk of catastrophic harm is real)
4. The measure of responsibility of the defendant towards the claimant
(constitutional, no-harm rule, ECHR)
5. How objectionable are preventive measures (efficiency and renewables)

Human rights infringement

- 4-6°C is an infringement of human rights (threat):

habitability of regions, the right to life, health, housing, self-determination, own means of subsistence, public order and security, environmental safety and respect for private and family life.

- Is there a lawful justification for these infringements?

....necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

What to do to avoid 2°C?

- **The EU Commission to the Council (10.1.2007)**

“The EU's objective is to limit global average temperature increase to less than 2°C compared to pre-industrial levels... By stabilising long-term concentrations at around 450 ppmv CO₂ eq. there is a 50 % chance of doing so.”

- **Netherlands Environmental Assessment Agency**

“Emission reduction targets of 25 to 40% below 1990 levels in 2020 would be consistent with stabilising long-term levels of greenhouse gas concentration levels at 450 ppm Co₂ equivalent. This concentration level has a reasonable chance (50%) of avoiding an increase in global average temperature of more than 2°C. ”

Prevention, precaution and causation

- **Succes rate** for staying below 2 degrees:
 - 450 ppm Co2 -> 50% chance (politically defined duty of care)
 - 350 ppm Co2 -> 85% chance (+ precautionary principle)
- **Prevention/precaution** -> no need to prove concrete harm and damages
- **Causation** -> each country is responsible for it's divisible share in causing global warming and has a corresponding duty of of care to mitigate

Climate lawsuit in the Netherlands

Parties involved

- Plaintiffs: NGO and 900 Dutch citizens
- Defendant: the Dutch government

Legal grounds

- Duty of care and (threat of) human rights infringement

Claim

- To order the government to do its share to stay below 450 ppm Co₂: in effect meaning a 40% reduction of Co₂ in 2020 relative to 1990 levels with a minimum of 25%.



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