

IASS-Blogpost

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Justice and the Climate Crisis: Germany's Constitutional Court Rules on Climate Action Legislation

The ruling by the Federal Constitutional Court has strengthened climate legislation in Germany. Shutterstock/D Busquets

On 29 April 2021, Germany's Federal Constitutional Court handed down a truly historic judgement when a complaint filed by nine young people against the Federal Climate Change Act (2019) (Bundes-Klimaschutzgesetz – KSG) met with partial success, with the court ruling that some of the provisions of the Act are incompatible with the fundamental rights of youth especially. This ruling at the highest legal level acknowledges intergenerational justice as a central motive for effective action to protect the climate, because "one generation must not be allowed to consume large portions of the CO2 budget while bearing a relatively minor share of the reduction effort if this would involve leaving subsequent generations with a drastic reduction burden and expose their lives to comprehensive losses of freedom" ([press release of the court](#)). The ruling requires deeper and more rapid reductions in CO2 emissions by 2030 to ensure that the fundamental rights and freedoms of younger and future generations are not massively restricted by drastic efforts to reduce emissions post-2030.

This recognition of the rights of young people is so historic and ground-breaking because they are so rarely acknowledged in day-to-day politics. Although the Brundtland Report recognised intergenerational justice as a central principle of sustainable development as early as 1987, it remained an abstract ideal that was seldom addressed in concrete measures. On the contrary, it was widely felt that youth and young adults had little to contribute to the policies that would shape their future. In 2019, when Fridays for Future mobilised tens of thousands of young people for climate protection in Germany, politicians reacted with scepticism and arrogance. Christian Lindner (FDP) suggested that children and young people should leave climate protection policy to the professionals.

Now, just two years later, the Federal Constitutional Court has called on the German government to amend the Climate Change Act to protect the rights of the younger generation. [This turnabout will unfold against the backdrop of a pandemic response that is increasingly being criticised for disadvantaging young people and children in particular](#). Columnist Sascha Lobo, for example, wrote recently in Der Spiegel: "It would have cost (please remove all

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sharp objects from the room and brace yourself before you read on...) about one-sixth of the rescue package provided to Lufthansa to equip classrooms across Germany with air filters.” The pandemic’s tendency to exacerbate inequalities was already apparent early last year. For example, infection rates were higher in low-income neighbourhoods, where people worked in service jobs that could not be performed from home and lived in cramped housing conditions. The government’s pandemic response struggled to engage with this reality. Politicians appeared to have as little concern for the health of pupils in classrooms as they did for the civil liberties of future generations that will have to endure the consequences of ineffective climate protection policies in the coming decades. But something has obviously changed since Lindner's disdainful remarks. Generational justice has become a widely debated topic. The inequalities heightened by the pandemic response are facing criticism and the Federal Constitutional Court has overturned an unjust climate law. But beyond how justice is delivered to young people and future generations, other dimensions of justice are also increasingly discussed in the context of global and national climate policy – both in academia and the broader public – such as the North-South dimension of justice and social justice.

North-South justice in the context of global climate policy is not a new issue either. The Rio Declaration adopted at the Earth Summit in 1992 established the principle of Common But Differentiated Responsibilities (CBDR), which attributes greater responsibility for climate change to industrialised countries due to their higher greenhouse gas emissions. Although this principle was supposed to establish global justice in climate policy, it has been gradually pushed into the background, especially by countries of the Global North. However, interest in this issue has grown in recent years, both in public discourse and in academic debate. In 2019, Luisa Neubauer and Greta Thunberg sought to put activists from the Global South at centre-stage when they held a high-profile press conference at COP 25 in Madrid. Their initiative aimed to cast a spotlight on climate policy in the Global South, as [Greta Thunberg explained](#): “Luisa and I want to use our platform to lend our voices to those who need to tell their stories. So me and Luisa will not be speaking today. Instead we will let others speak. We are privileged and our stories have been told many times.” In the end, the media only reported about Thunberg and Neubauer, but this attempt to problematise inequalities and change the discourse around this subject is nevertheless important.

In recent years, researchers have also examined the unequal participation of NGOs from the Global South in climate protection conferences. Gereke and Brühl (2019), for example, write that only about a quarter of all NGOs participating in various COPs between 2009 and 2015 were from the Global South; the vast majority were based in the Global North. This can have enormous implications for the development of and decision-making around climate policy. Climate conflicts in the Global South are either rarely mentioned or marginalised. In the field of Anthropocene Studies, the term "planetary justice" was recently introduced (Biermann and Kalfagianni 2020). But this imbalance is also apparent in science. For example, a study by Jens Marquardt (2018) shows that 89 percent of the scientific papers published in the field of Anthropocene Studies are written by scientists from in the Global North and only 11 percent from the Global South. A similar picture emerges in the environmental sciences, which, according to Bansard and van der Hel (forthcoming, 2021), are not only dominated by scientists from the Global North, but also focus primarily on moderate or cold climate zones.



Subtropical and tropical regions are much less researched (Bansard & van der Hel, forthcoming).

Social justice has also re-entered public discourse in connection with both the coronavirus pandemic and the climate crisis. Effective climate policy is often criticised as ‘unrealistic’ because it would result in social injustice. The costs of the energy transition, the high price of organic food – there are many examples that seem to suggest that climate policy only benefits the well-off and could endanger social peace. In Germany, however, The Greens have recently outlined policy proposals that, they claim, would ensure that climate protection and social justice could go hand-in-hand. Under the leadership of their co-chairs, Baerbock and Habeck, the Greens have manoeuvred their way out of the “[muesli corner](#)” and rebranded themselves with a strong focus on linking climate and environmental concerns with social justice. This (among other reasons) has brought the Greens more credibility beyond their core constituency, resulting in record highs in surveys and the first Green chancellor candidate. Fridays for Future has also recognised the relevance of social justice and has recently formed an alliance with the trade union Ver.di to hammer out proposals for a socially just energy transition, for example. On 5 May 2021, Fridays for Future published a joint position paper together with Ver.di and Unteilbar für eine solidarische Gesellschaft.

These different questions around justice in the context of climate protection and sustainability policy will become increasingly important in the coming years, especially when the socio-economic impacts of the pandemic become clearer and begin to interact with the effects of the climate crisis.

1 Literature:

Bansard, Jennifer; van der Hel, Sandra (forthcoming, 2021) Science and democracy: partners for sustainability? In: Bornemann, Basil; Knappe, Henrike and Patrizia Nanz. Routledge Handbook of Democracy and Sustainability, Routledge

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Gereke, Marika/Brühl, Tanja 2019: Unpacking the unequal representation of Northern and Southern NGOs in international climate change politics, in: Third World Quarterly 40: 5, 870-889.

Jens Marquardt. 2018. “Worlds apart? The Global South and the Anthropocene.” In The Anthropocene Debate and Political Science, edited by Thomas Hickmann, Lena Partzsch, Philipp Pattberg, and Sabine Weiland, Pp. 200-218. London: Routledge.

