

Technion – Israel Institute of Technology
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How “adaptable” is planning law to climate-change? A “reality check”

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CLIMATE CHANGE DOCUMENTS IGNORE

- the realities of property rights at local levels
- The realities of local planning laws
- The financial issues: Who will pay? To whom?

KYOTO, PARIS, COPEHNAGEN, MADRID, GLASGOW - don't even mention there issues

Our profession – spatial planning - should be the ideal profession for promoting adaptability to climate change

because

Planning seeks to be future-oriented, with ambitions for the long range.

Planners are trained to acknowledge complexity. Cities are the utmost complex challenge for public policy

Planning seeks to be comprehensive in perspective. Climate change challenges many policy spheres

Planners (should) know how to mediate among competing groups and interests. Climate change issues create many conflicts

BUT planning relies a lot on land law and planning regulation

Planning law as the DEVIL



Planning law as the ANGEL

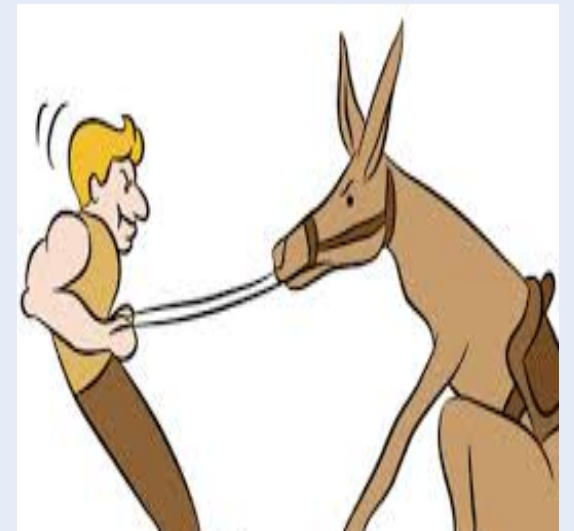


Many climate change policies related to land and property rights

- Planning law is related to land laws. Land law is very local, domestic. Usually with a long history. Climate change adaptation often affects real estate!
- Property rights are deeply embedded in societal and political structures and norms
- Real property is by far the major household asset in most countries
- Property interests often have strong correlation with political influence

SO electorally, land law and planning law are difficult to change

The Paradox re climate change:
Planning LAW itself is extremely 'resilient' to adaptation
Obstinate..



Planning law procedures inherently move slowly



Planning-law procedures tend to be long.

Planning theory and ethics generally supports this

Yes, for good reasons – more multi-stakeholder reviews, participation, collaboration, information

BUT

The built-in procedures are inhibitors to timely adaptability

There are some differences in the degree of inherent flexibility in planning laws – but none are flexible enough to meet CC

Increasing litigation – more groups access the courts.

Except in crisis situations.



But real crises situations are sudden, unexpected, and challenge the system as a whole.

Can climate change be elevated into a real PERCEIVED CRISIS?

But this will involve compromises

Less public participation? Less access to the courts?

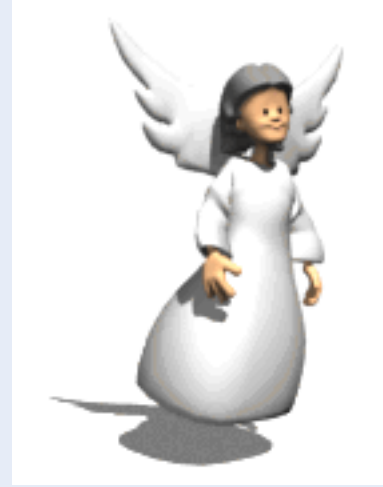
- Greater centralization of decisions?

Devil or Angel?

Some examples of the real-life operation
of planning law vis a vis climate change –

Renewable energies: A mixed picture

Success in more countries in adapting planning law to reach renewable energy targets



Grounded renewable energy

Land and planning-related regulatory barriers in cross-national comparative perspective

Prof. Alterman Rachelle and Dr. Na'ama Teschner



But failure in other countries due to inertia, and growing public opposition – even in Denmark, resistance to more wind farms on land (pushed to the sea)



Rural land more advanced than urban – property rights less complex.

Little progress in urban areas – e.g. no compulsory installation yet, few attempts to fit condominiums laws

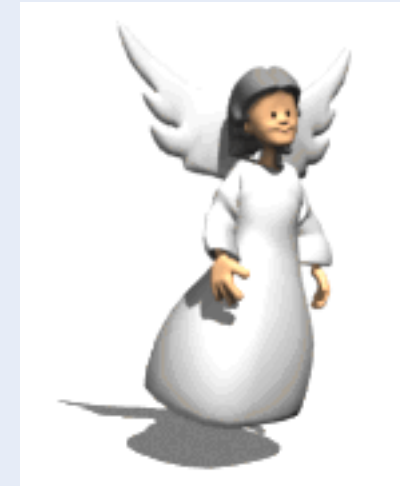


Nature-based solutions – flood containment

In urban Denmark - substitute for traditional engineering in new urban development

Difficult to impose in existing developments
BUT

Nature based flood control on private rural land – taking its first steps in several countries
BUT rural property rights are a major constraint



Through development controls, design controls or planning obligations/ incentives

– increasing success in:

- Green roofs
- Permeable surface on private urban land



Regulating Coastal Zones

International Perspectives



Edited by
Rachelle Alterman and Cygal Pellach

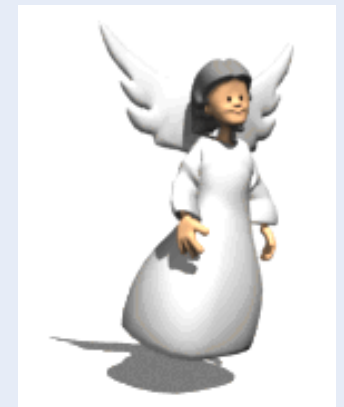
Coastal zone regulation – the prime candidate for climate change awareness. BUT coasts are also prime real estate.

- This book analyses 15 countries comparatively in their national laws and practices
- Also evaluates the 9 Mediterranean countries in terms of the Barcelona ICZM Protocol

The response to this international law has been minor and limited

4 Strategies of adaptation to sea-level rise

Major head-on challenge to private property rights along coastal zones



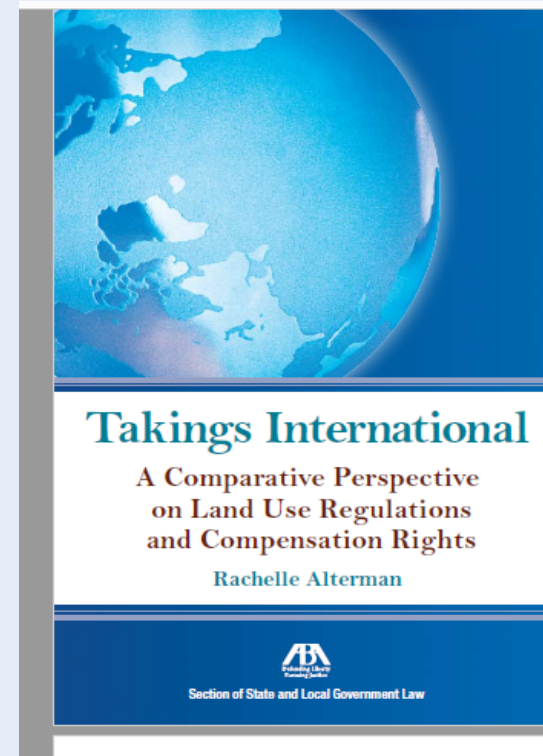
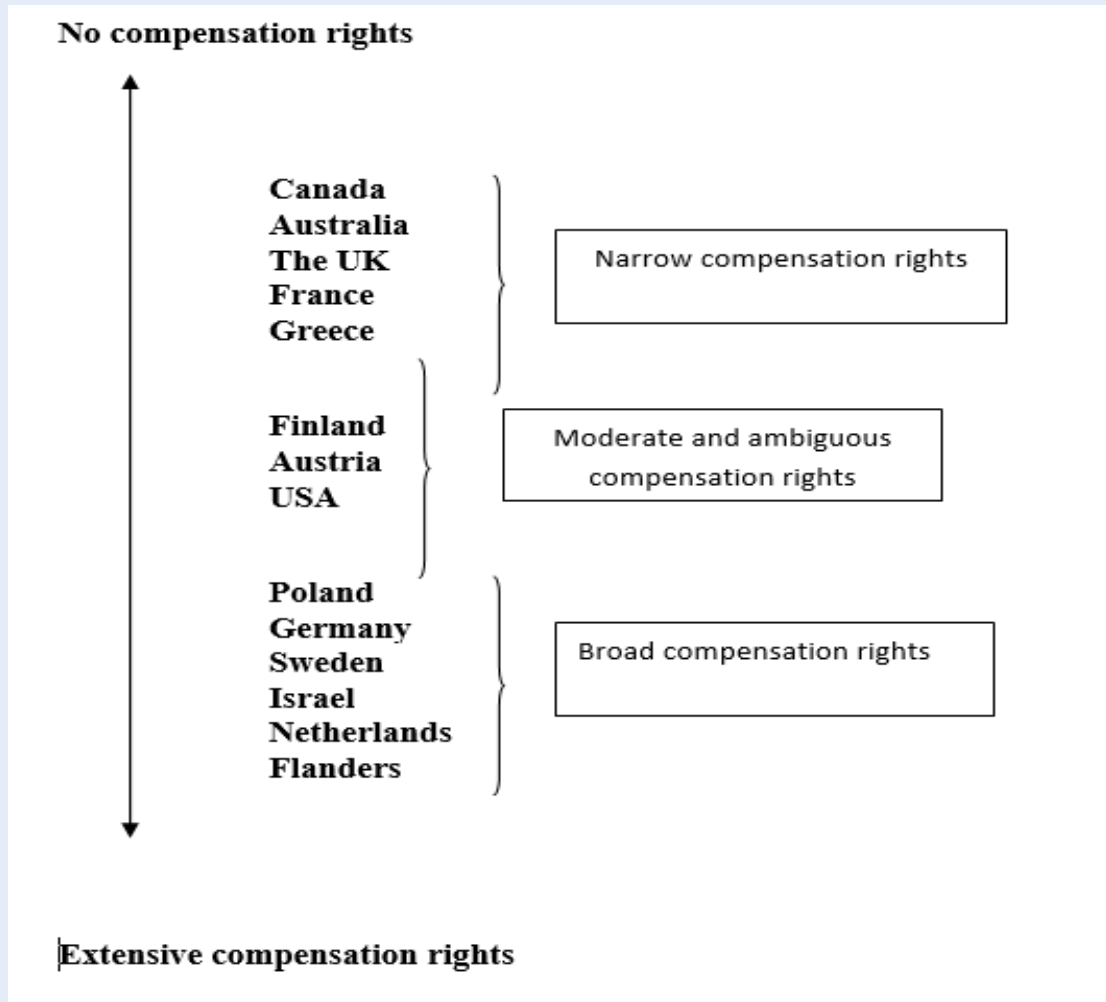
1. Denial. Continue to rely on engineering hardware

Example of Miami Beach Florida ☹️ MOST DOMINANT

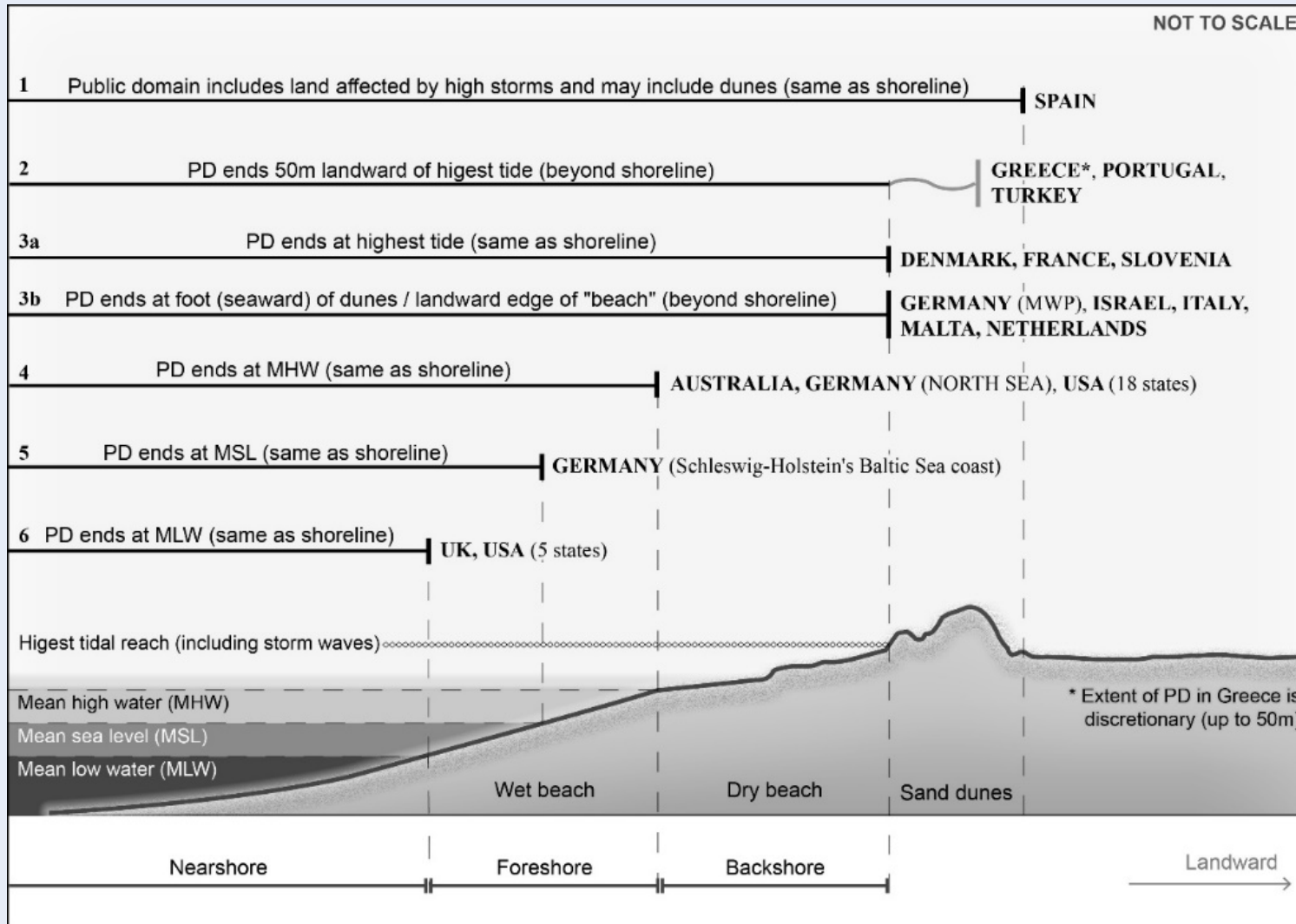


2. Retreat: Abolish **unbuilt development rights**

This may encounter compensation rights in some countries (less in Spain)



Spain is “best practice” in its 1988 expansion of the coastal public domain - but this has come at public expense



Almost no country (below the norm) has expanded its coastal public domain or setback zone in response to the international law! EXCEPT SPAIN prior to the Barcelona Protocol, and Israel, in response to it

3. Turn existing structures into “temporary”

Spain –in 1988 changed the coastal legislation

Turned thousands of homes – permanent and summer homes – instantly illegal

Repair and maintenance barely allowed

Property rights were converted into self terminating concessions

This action even reached the European Parliament.

Public protests led to legislative change that extended

The period for the concessions

Legal uncertainty remains

Protest and feeling of injustice remain



4. Planned retreat in a built-up zone with demolish



Figura 14: Recuo planeado do núcleo edificado e obras de requalificação em São Bartolomeu do Mar
Fonte: POLIS LITORAL NORTE

Portugal

Demolição das torres de Ofir só "em último recurso"

03 Junho 2014 às 14:37



TÓPICOS

Pais



Em causa estão três torres na praia de Ofir
Foto: Rui Oliveira/Global Imagens

O ministro do Ambiente e do Ordenamento do Território, afirmou, esta terça-feira, que vão ser investidos 1,2 milhões de euros para "proteger" as torres de Ofir, em Esposende, sublinhando que a demolição só avançará "em último recurso".

Can planners help to make the devil smaller and the angel larger?

REMEMBER: the devil cannot disappear entirely because it is inherent in planning law to some extent



Planners should take the lead in strategizing
– but with realistic expectations.

- **Re-evaluated planning regulations and planning law critically – including willingness to throw away many of our routine, entrenched regulations and procedures**

Distinguish between strategies for INCREMENTAL CHANGE – such as more compact cities, zero rural “land take” policy

And **strategies to be framed as CRISIS SITUATIONS**. But these must be few, with a cost-benefit that the public can support

Enhance **cross-national learning** in planning law – as both devil and angel to meet climate change

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Thanks for your comments

all my publication can be downloaded from my web site
or research-gate

Rachelle alterman