

Issues of Law and Regulation in Geoengineering

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Abstract

In less than a decade, there has been a detectable increase in the legal scholarship addressing geoengineering techniques. Building upon divergent scientific views on the risks and benefits of individual methods, the legal literature on geoengineering has been focusing on legal and institutional questions and options to govern these techniques. Mapping the main international law scholarship on geoengineering, this contribution will focus on the following general issues (Part I of the final report):

- The boundaries of Geoengineering techniques/research (the "*what are we regulating*" question, including an overview on how legal authors have structured their research questions and why)
- The purpose and role of Geoengineering regulation (the "*why are we regulating it*" question, including an overview of potential rationales and scenarios for regulation)
- The extent to which international law is applicable or, at least, adaptable to regulate geoengineering (the "*how is, or could, it be regulated*" question)
- The institutions and bodies likely to adopt and enforce Geoengineering regulation (the "*who should be deciding*" question)
- The debate on the distinction between regulation of geoengineering research and the regulation of geoengineering deployment (the "*when is regulation applicable*" question)

A comprehensive analysis of the individual instruments is still a work-in-progress. The aim of this contribution is to gain feedback on the general approach adopted to discuss the legal and regulatory issues associated with geoengineering research and, potentially, deployment under international law. In particular, we would welcome feedback upon the use of indicators to assess both the international treaties and institutional frameworks likely to be applicable, or adaptable, to regulate and govern geoengineering methods. These are: legality, precision of the obligations, decision-making rules and participation, regulatory instruments and incentives, distribution of responsibility, treaty bodies, liability and enforcement, scientific input in the decision-making, degree of state participation and geographic representation, and "future-proofing".