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# Symposium: Towards a Sustainable Global Economic Law: Shifts, Ruptures and Social Justice

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## Symposium: Towards a Sustainable Global Economic Law: Shifts, Ruptures and Social Justice

**Reading Time: 5 minutes**

What might a 'Sustainable Global Economic Law' (SGEL) look like, in a context of **accelerating** ecological degradation, wild levels of inequality and wealth concentration, continuous technological disruption and strong demands for environmental and social justice?

This ambitious question was at the heart of the two-day conference convened at the **University of Amsterdam Law School in December 2021**. The conference was imagined as a series of exploratory interdisciplinary conversations to tackle issues around SGEL's methods, scale, governance, substantive rules and distributive effects, in a way that maps out the unknowns, reveals conflicts, instigates conversations and provides new perspectives (the recordings are available **here**).

The goal was to interrogate the role of global economic law – a myriad of interlocking public/private, domestic/international legal regimes which together structure the global economy—in the reproduction of various forms of power asymmetries, gendered, racialized and class-based inequalities, and environmental disasters. It also aimed to suggest tentative and provisional

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Posted by  
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answers on whether and how SGEL could be (re)claimed to truly address the ongoing ecological catastrophe and social justice issues.

### ***Unpacking the terms of the conversation: “Sustainable”, “Global”, “Economic” & “Law”***

In law, each of the terms *sustainable*, *global*, *economic* and *law*, and the relations between them, have multiple meanings that are highly contentious, unstable and ideologically fraught, bound up with distributive stakes. The below is a brief and tentative explanation of why that is the case for each of these notions.

**“Economic”:** the very definition of *“economic”* and *“the economy”* is descriptively and ideologically **problematic**. In law, the dominant approach is that the market and economic transactions are prior to law, and that there is a division between *“non-economic”* (protection of the environment, or human rights...) and *“economic”* legal fields (e.g. economic laws regulating international trade, contract and property). This distinction however erases how activities which have only over time been labelled as *“non-economic”*, such as social reproduction, actually sustain the very functioning of capitalism (see some of the materialist feminists’ contributions: **here** and **here**). Similarly, *“nature”* and the *“environment”* are seen as divorced from markets, when in fact capitalist economies rely on the ongoing commodification and extraction of natural resources, and the exploitation of the non-human world. This artificial division implies that the markets are somewhat ‘disembedded’ and isolated from political, cultural and social institutions and practices—including the law—when this has **never been the case**. Finally, this division is increasingly unstable in the neoliberal context and given the growing ‘economization of life’ whereby every aspect of life is coded **into market terms**.

**“Law”:** there is now a myriad of theories that describe, analyze and critically interrogate what ‘the law *is*’ or should/could be, what the legal actors, interlocking regimes, **and processes are**, and how **they relate to societies** and markets in global contexts. This is all well known (or should be) for lawyers interested in how globalization affects law, and is produced by it.

In relation to the economy, since the early 20th century **legal realists** have claimed that law constitutes it, and creates ‘economic objects’ (as opposed to having a regulatory or facilitative role, implying that the ‘economy’ is **prior to law**) Marxist **legal scholars** have critiqued law’s role in sustaining capitalist social relations, and have exposed the relations between law and neocolonialism. More recent interventions in **law and political economy** scholarship extended these lines of inquiry, complicating the narrative of ‘free floating markets’ and mapping the power structures maintained by law.

The major challenge in thinking about *what a sustainable global economic law is*, or could be is that *(global) economic law* is at the very root of the ecological and social crises that we are currently witnessing. The crises within the

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Anthropocene are inseparable from the emergence of a global capitalist order, the oppression of gendered and racialized communities, and the non-human, enabled and legitimized by law. For instance, TWAIL **scholars** have repeatedly argued that international law and institutions have an imperial character, and still continue to marginalize voices and perspectives from the Global South. Similarly, drawing on **posthuman and feminist theories** legal scholars showed the structural bias within law, which upholds the superiority of human needs and subjectivities, and argued that the law has to **challenge this inner logic**. There are therefore serious reasons to doubt the law's ability to truly address the ongoing ecological and social crises.

**“Global”**: the definition of ‘global’ in ‘global economic law’ is also a contentious one. Descriptively, the term ‘global’ may imply some sort of harmonization processes, or legal uniformity, which is at odds with the multiplicity of overlapping, conflicting, interwoven private, local, national and transnational legal regimes and networks.

Normatively, describing a legal field/norms/practices as “global” risks downplaying and erasing the globalization of Eurocentric epistemologies, practices and modes of being. It may paper over **power relations**, and more complex interrelations between international-private-domestic-local legal norms and governance regimes. Naming a legal phenomenon as “global” risks glossing over its **distributive effects**.

In relation to the ecological crisis, the notion of “global” and “global (economic) law” may end up masking the **profoundly unequal exposure** to environmental harms faced by gendered, racialized and poor communities and the overwhelming responsibility of the Global North and the richest people for the current crisis. Those who have the ability to adapt are those who have contributed the most to the current ecological catastrophe. At the same time, however, for some **critical thinkers**, the climate crisis forces us precisely to think and act in terms of the “collective humanity” while extending the idea of politics and justice to the non-human.

**“Sustainable”**: finally, the notion of ‘sustainability’ is often used as a proxy for ‘social justice’ but it is unclear what the concept exactly refers to in a context in which many actors (from economic actors, to far-right parties and progressive and conservative governments) deploy sustainability to legitimize their actions. In law the notion of sustainability is associated with the concept of “sustainable development” and the idea that economic development, social inclusion and environmental sustainability should be interrelated. But, as **many have** argued, the concept of ‘sustainable development’ is inadequate and flawed. One of the main reasons is that it is premised on the notion of economic growth and unlimited extraction of wealth, fundamentally incompatible with the notion of planetary boundaries. Many have argued that the recent green economy initiatives are equally problematic and risk **exacerbating inequalities**.

Can a *sustainable* global economic law be designed to truly address the many forms of injustices—gendered, racialized and class-based inequalities, as well as the daily violence inflicted on the non-human worlds, which are at the core of fossil fuel capitalism? How to avoid SGEL being co-opted to legitimize power asymmetries, oppression and hinder meaningful emancipatory change?

Helping us navigate this lexicon, the speakers at the SGEL conference have generously agreed to further reflect on these notions, and the hard legal and political questions ahead when addressing the ongoing eco-social crises. Over the next couple of weeks, they will help us grasp what a SGEL which is attuned to various intersecting forms of injustice and seeks to truly confront them could look like.

(Photo: [Eutah Mizushima](#))

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