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Progress and Linear Time: How to Rethink International Law to Account for Ecologically Precarious Presents?

Eliana Cusato

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We live in the ‘era of global boiling’, [says](#) UN Secretary-General Guterres, as July 2023 set to be the hottest month on record. While the ecological conditions of planetary life get worse, ‘we can still stop *the* worst,’ he adds. ‘But to do so we must turn a year of burning heat into a year of burning ambition.’ As recently [observed](#) by Lesli-Anne Duvic-Paoli, the language of ambition plays a central role within international law, particularly in the context of climate negotiations. Ambition motivates states to tackle complex global challenges and commit to far-reaching objectives. Yet, ambition comes with several shortcomings, one of which is its alliance with ideas of progress – the central theme of this year’s AjV-DGIR Conference and this Symposium. One may indeed argue that ambition is just old wine (progress) in new bottles.

In this short contribution, I want to link the question of progress in international law to that of the temporality – or better temporalities – of living thought climate disruptions. As [observed](#) by Thomas Skouteris, the rhetoric of progress, with its permanent orientation towards a better future, ‘seems ever-present, so perfectly embedded in international law’s everyday life that its constant use passes unnoticed’. While the teleological orientation of the discipline and the associated civilising narrative have been exposed by [postcolonial](#), [feminist](#), [queer](#), and [Marxist legal scholars](#), when it comes to international law’s temporalities, there is still a lot to unpack and learn from other fields of study.

Most recently, following parallel developments in socio-legal studies, the topic of time has [gathered increased interest](#) in international law scholarship. The emergence of temporality as a distinct angle of analysis and critique of the international legal order is, in my view, one of the most fascinating ‘turns’ in our field. It enables not only to ask novel questions about the ontological and epistemic assumptions entrenched in the field, but also to illuminate their material consequences. Fleur Johns [has drawn](#) attention to international law’s productive function vis-à-vis time; Geoff Gordon [has traced](#) how global standardised time was encoded by the law in 19th century to advance particular political economic interests, namely the ends of free trade and commodification; Kathryn McNeilly [has questioned](#) dominant approaches to time and futurity in international human rights law; and Zinaida Miller [has reconceptualised](#) transitional justice practices as a form of temporal governance. In showing how the relationship between law and time is one of mutual co-constitution, previous scholarship invites to further interrogate international law’s temporal foundations and their distributive effects.

This investigation is especially needed, I suggest, in the context of contemporary ecological precariousities and a changing climate. If time is not something external to the law, then the question of how international legal discourses are involved in upholding temporal assumptions that may run against contemporary ecological imperatives assumes a particular urgency. Understanding how certain ideas about time and progress are made, unmade, and remade in international law is central to think about the present and future of life on this planet.

Law and Linear Time: From Middle Ages Europe to the Rest of the World Through the Colonial Encounter

The question of the law's ambivalent, yet constitutive, role in temporal ordering has been the object of a prolific and [inspiring debate](#) in socio-legal studies. Scholars working on the interrelation of law and time have built upon a variety of intellectual traditions showing how the conceptualisation of time as a linear and measurable entity emerged in a specific historical moment, under the pressure of [modern capitalist and imperialist forces](#). In doing so, they have showed how modern temporal predicaments are deeply embedded in Western ideas and epistemologies.

In a fascinating socio-historical exploration of the emergence in Europe, and subsequent global dominance, of linear conceptions of time, Carol Greenhouse [shows](#) how Christian theology and secular institutions (the monarchy, common law, and juries) popularised linear time, making it the 'domain of the everyday'. She explains how the concept of linear time, a time that marches forward through subsequent historical stages, was initially a theological concern, indicating the segment between creation and judgment day. It became laicized in a long process, which included institutional and social changes in public life and thought, as well as the invention of the mechanical clock in 1354. Common law, which was developed in that period, reflected the logic of linear time through its invocation of precedents, the commitment to reforms, and the recognition of individual rights, thus playing a crucial role in the institutionalization of linear temporality.

After being institutionalized in Europe, the concept of linear time was 'exported' and imposed upon indigenous and non-European people in parallel with the colonization of space. The universalisation of 'western time', including through modern law, has been associated with acts of [temporal 'othering'](#). By constructing the 'Other', as archaic and backward the West was able to define itself as modern and progressive. As Antony Anghie [has stressed](#), in this 'linear, evolutionary scheme [...] the non-European world is the past and the European world the future,' and 'by examining the primitive... the [white, 'European'] modern acquires a better, clearer sense of itself.'

From its sacred origins to the secular dimensions, linear time has been associated with ideas of modernity and progress. The relationship between progress and forward moving temporality has important implications for normativity. How Eurocentric ideas of chronological linearity and progress interpenetrate and work together in international law to advance a specific worldview? What are the implications for how we think about international law's engagements with the unequal precariousities associated with the [ecological slow emergency](#)?

Progress and Linearity in International Environmental Law

In his foundational work on progress in international law, Skouteris [identifies](#) two accounts of 'progress' within the field: international law as progress (i.e. the idea that international legal norms are a desirable and even necessary means to address global challenges) and progress within international law (i.e. the idea that the field is developing and becoming 'better' in terms of rules, institutions, practices, judicial decisions). While both accounts can be observed in different sub-fields of international law (most notably, in [human rights law](#)), I am interested in exploring how they play out in international environmental law.

Here the narrative of a slow, but incremental progressive development from the 1972 UN Stockholm Conference is, arguably, dominant and constantly re-enacted. This narrative is incorporated in key legal principles, notably sustainable development. Du Pisani's historical discussion of sustainable development [illustrates](#) how sustainability emerged to incorporate environmental concerns into the mainstream development discourse, in order to rescue the latter from increasing discontent and save the idea that, despite the challenges, 'humanity' was still moving and will keep moving in a desirable direction. Similarly to the Western idea of development being defended by its proponents as a form of [progress through modernisation](#), and as the primary mean to achieve human wellbeing, sustainable development promotes a forward-moving teleology. Yet, by assuming a linear trajectory and timeline, sustainable development also contributes to a [temporal division](#); the 'underdeveloped' is imagined as inhabiting a backward and traditional past, while the 'developed' is imagine as 'the' future.

Another, more recent example is offered by the field's [enthusiastic response](#) to the requests for advisory opinions on climate change submitted to the International Tribunal for the Law of the Sea, IACtHR, and the International Court of Justice. Most legal scholars and advocates see advisory proceedings as part of 'an epic battle to save planet Earth', often glossing over the [possible drawbacks](#) of such proceedings. Here the traditional view that an increasing judicialization of international affairs is a sign of disciplinary progress meets the argument that international courts should be ambitious (!), take a leading role (if not responsibility) to address one of the most urgent challenges facing humanity, and become actors of positive change.

If we understand the relationship between progress and linearity as mutually reinforcing, a more critically engagement with the work that these two concepts are doing in international environmental law is needed. What are the limitations of western linear temporality and the progress discourse associated *inter alia* with the notion of sustainable development in facing planetary boundaries? What is at stakes when a future oriented, teleological imaginary of time becomes the reference to think about law's responses to climate change and its uneven effects?

A number of legal scholars (notably, [Julia Dehm](#), [Anna Grear](#)) have started grappling with questions of temporalities in the context of the Anthropocene climate crisis. They have suggested that the latter demands a remaking of dominant temporal accounts (as well as spatial abstractions). Their work is an invitation for international lawyers, beyond sub-disciplinary specialisations, to take seriously the temporalities

that organise our political economic and legal systems, that are involved in the making of the current ecological breakdown, and that may restrict the possibilities of working towards more liveable futures.

These arguments call for a deeper engagement with the idea of [‘law as temporality’](#), as put by Renisa Mawani, through a fine grained scrutiny of the temporal assumptions imbued in legal doctrines, processes, and concepts. By doing so, we may start a conversation on the alliances of our discipline and profession with specific (Western) notions of time, on the implications for how we think and act in an ecologically precarious present, and ‘how the vocabularies created through these alliances became generalised and thereby difficult to escape’, as [argued](#) by Anna Saunders. If Western ideas of linearity, modernity, and progress are implicated in the making of the current socio-ecological breakdown, any proposal to imagine more ecologically just presents needs to abandon international law’s promise of redemption and radically rethink its temporal orientations.

