



TUE, MAY 17, 2022 - The ecological transition's impact on the legal structure of capitalism

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Aude S. Epstein, *Visiting Assistant Professor of legal studies at NYU Abu Dhabi*

Organised by the FDEF House for Sustainable Governance and Markets in collaboration with the Belgio-Luxembourg Hub of the European Law Institute (ELI), the Association Luxembourgeoise pour le droit de l'environnement (ALDE) and EU Law Live (as media partner).

Abstract

Capitalism rests on a legal architecture organized around a series of binary distinctions. The development of large

transnational corporations has eroded the relevance of many of these traditional binaries. It is now clear that traditional oppositions between public and private law on the one hand, and national and international law on the other, are all but useful to understand and to govern private economic powers that craft a global law spanning beyond Nation States. However, another dichotomy that marks the traditional legal structure of capitalism remains very (too) prevalent: it is the one that dissociates business law, supposedly dedicated to developing economic transactions, and external regulations, supposed to remedy the negative externalities and distortions in the distribution of value that result from these transactions. The presentation will highlight the need to distance oneself from this dichotomy, by studying the propensity of the divide between business law and environmental law to fuel the ecological crisis. A critical cross-analysis of business law and environmental law will be proposed, from which several original reform proposals will emerge.

Biography

Aude S. Epstein is currently Visiting Assistant Professor of legal studies at NYU Abu Dhabi. Previously, she was a Tenured Assistant Professor at Paris Nanterre University and Adjunct Professor at Sorbonne University and Sciences Po, where she has been particularly active in developing the animal law clinic. Her research sheds a critical light on the use of business law to foster environmental protection and animal welfare. She is now leading a research project on the ecologization of business law for the French Ministry of Justice and the French Agency for environmental protection (ADEME). Her PhD dissertation, which deals with the use of corporate disclosure as a tool to foster environmentally sound business practices, has received the Joinet Prize for private and comparative law (2015) and a 3-years

grant by the French Agency for Environmental Protection (ADEME).

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17



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