

Law and/in the Anthropocene
2nd conference of the Swiss Network for Law and Society
Bern, 10-12.02.2025

The Swiss Network for Law & Society (SNLS) aims to create a space for networking, discussion and cross-disciplinary collaboration between scholars researching law from an empirical perspective. The second conference of the SNLS will take place from the 10th to 12th February 2025 and will provide an opportunity to explore the trajectories of legal developments and responses vis-a-vis the challenges posed by the era that is referred to as the Anthropocene. Such challenges include climate change and global heating, the loss of biodiversity, climate migration and refugees, public health, human rights, and, more broadly, the 'sustainability' of capitalism. Many of the responses to these challenges are of a socio-legal kind, including legal propertization and privatization, gendered or racialised divisions of labor, new migration regimes, new financial instruments, the constitution of new subjects of rights and the exclusion of others from being rights holders. This is what this conference seeks to examine.

From the climate crisis to the loss of biodiversity, law in its different manifestations (constitutional, civil, criminal, human rights, international) is being mobilized within and across different jurisdictions through policy making, litigating, and the creation of new legal subjects. Indeed, the tools of law are some of the few politically legitimate means that societies currently have at their disposal to address socio-ecological challenges posed in the Anthropocene.

In this context, we observe the juridification and judicialization of the above mentioned issues as a growing trend in addressing the intersecting challenges of the Anthropocene. Legal practitioners, NGOs and social movements continue to demand new legal statutes and bodies to adjudicate the infringement of old and new forms of rights and protections for a growing number of legal subjects, including non-humans. In other arenas, industries that account for a major role in climate change develop their own legal frameworks through soft law, contract law, and private actors' attempts to contribute to national and international lawmaking. States, too, are introducing new legislation that seeks to 'green' capitalism, from carbon pricing to environmental standards to be applied across supply chains.

In this increasingly complex and fragmented legal landscape, socio-legal research thus requires innovative and transdisciplinary methodologies and theoretical approaches to bridge empirical-analytical and normative approaches. This conference invites conversations across disciplines in social sciences and humanities to discuss the relationship between law and the Anthropocene. We invite all interested researchers to submit panel proposals, regardless of their disciplinary background: law, sociology, criminology, political science, anthropology, geography, psychology, history, social work, etc. We ask for panel proposals that fit into one of the themes below. **Proposals for panels** must indicate what **theme** they are part of and include a panel title, a panel abstract of max 500 words, and a contact email address. Panel proposals can be in English, French or German. All panel proposals must be sent before **1.6.2024** to the following address: conference2025@lawandsociety.ch. Fully or partially formed panels with 3-5 paper abstracts, as well as panel proposals without any paper abstracts are welcome. We will circulate the accepted panels with a call for paper abstracts in July 2024. Please note that abstracts for papers will then need to be submitted directly to panel organizers by 30 September 2024. If you have any questions, please contact conference2025@lawandsociety.ch.

Conference venue: University of Bern, UniS

Conference dates: 10-12.02.2025

Conference host and organizing team: Institute of Social Anthropology, University of Bern
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Conference Themes

1) Dilemmas of juridification and democratic politics in the Anthropocene

When political conflicts enter the legal system through lawsuits and litigation, dilemmas arise within democratic processes. Through the juridification of politics, the electoral process and established forms of democratic representation can be circumvented through the courts. At the same time, the courts can act as a counterpower to the other branches of democratic government and allow citizens and social movements to hold more powerful actors or their representatives accountable through legal mobilization, cause lawyering, strategic litigation, etc. The dilemmas of juridification and democratic politics are particularly relevant in the field of environmental conflicts, policy making and politics: with the intensification and growing urgencies of multiple and overlapping socio-ecological crises in the Anthropocene (e.g. climate, biodiversity, water, soil, air), they will arguably only become more pronounced.

This theme invites panel proposals that critically engage with processes of and struggles over juridification in the Anthropocene in order to examine what dilemmas these processes and struggles posit vis-a-vis democratic politics. More specifically, we encourage panels to examine the complex relationship between juridification and democratic politics against the background of intensifying socio-ecological crises: For instance, how do democratic principles become challenged, reinforced, or transformed through juridification, and how does democratic politics limit or promote juridification? What issues arise from juridification of political conflicts and how do different actors address them? How may juridification support or inhibit legal mobilization by social movements? How may juridification promote or prevent the criminalization of environmental activism? Panels that address these or related questions are invited to draw on various traditions in legal and political theory, including - but not limited to - law, legal anthropology and geography, political ecology, law and political economy.

2) Making rules for ‘green’ capitalism

Law’s powerful role in wealth creation and the production of inequalities through the codification of capital has been discussed at length across disciplines. The rules enabling capital accumulation are however changing in the era of the climate crisis. Green growth is emerging as the new paradigm for capitalist expansion post-Paris agreement, and this is being accompanied by a flurry of new regulatory activity from states that seek to render capitalism sustainable. These are taking place in different fields, from the regulation of emissions to trade regulations coupled with diligence obligations across value chains. In this context, law’s role in entrenching, evading and/or transforming the political economic status quo, in the era of the climate crisis needs to be more closely examined. On the one hand, laws and institutional mechanisms of regulation have the ability of creating durable and predictable

conditions for the continuation of capitalist activities. On the other hand, efforts to regulate capitalism may try to intervene upon or even disrupt international trade flows, potentially clashing with principles of international economic law. This theme seeks to foster a series of conversations that address the following question: What role does law play in greening capitalism? Proposals for panels can include contributions across disciplines and should interrogate the role that law, in its multiple form(s), plays in upholding and creating (new) rules for anthropocentric capitalism. Panels that, for instance, question the relation between the proprietisation of the atmosphere, the distribution of the right to emit, and its unequal effects, would be welcome. As would panels that examine the distributive effects of new and evolving regulations that seek to intervene on international trade flows in a bid to address the climate crisis or that look at the consequences of sustainability provisions in agriculture. Comparative perspectives on lawmaking and the relationships between politics and economy are welcome.

3) Privatisation of law in the Anthropocene

Private non-state actors play an increasing role in law making, law enforcement, and legal adjudication, including on environmental matters across local, national, and transnational scales. With the long-running privatisation of the state and the resulting emergence of new and growingly fragmented legal constellations, the climate governance regime is becoming increasingly complex. This theme calls for panels that question the role of privatisation of law, and the emergence of new legal intermediaries, in current attempts to frame a new social and environmental contract. It therefore welcomes panels which address the proliferation of these new - and often conflicting - legal constellations, such as: environmental clauses in private contracts and agreements, private compliance and certification mechanisms, outsourcing of law-making to consultancy firms and industry fora, private enforcement by firms and NGOs, or adjudication in non-state dispute resolution fora such as arbitral tribunals. Among the questions that the panels could address are: How do corporate incursions in lawmaking, law enforcement, and dispute resolution support, contest, or hinder climate change regulation? How are “public” and “private” interests constructed, assembled, and hierarchized in hybrid modes of regulation? To what extent is the increasing complexity of the climate regime changing the central role of States in the efforts to mitigate climate change? In studying how various state and non-state actors are together involved in lawmaking, law enforcement and adjudication, panels are also invited to consider the role of legal as well as formal and informal regulatory intermediaries. Doing so suggests paying attention to power relations and conflict both in the translation of (private-led) regulation into concrete practices and of specific situations into broader legal categories.

4) Critical Perspectives on (New) Rights-Bearing Subjects in the Anthropocene

New subjects of rights are emerging in response to the planetary crisis: the environment, non-human animals and nature. None of these ideas - environmental constitutionalism, animal rights and rights of nature - are completely new, but they are rapidly gaining traction. Today, provisions that recognise ‘the environment’ as a subject for protection exist in the majority of national constitutions. Moreover, fundamental animal rights have been recognised by courts in Argentina, Colombia, Ecuador and India, for example. And there are many initiatives across the world aiming to make ‘nature’ as such or so-called ‘natural entities’ like rivers, glaciers, forests or lagoons, to name but a few, holders of subjective rights. This theme calls for panels that engage with these trends, their histories and factors giving rise to their current momentum. It particularly invites panel contributions that, by bringing different disciplinary perspectives and approaches together, look beyond the promises of these legal novelties at their practical implementation, challenges, limits and political effects. Panels that critically engage with the relationship between rights (as entitlements) and obligations as well as the empowering and silencing effects of rights and rights talk - also through comparisons with rights creations and adaptations in other legal domains - would be very welcome, as would critical discussions of the risks and opportunities of a posthuman turn in law.

5) The Normative and the Empirical in Socio-legal Research.

This theme invites panels that gather contributions on the specific challenges of bringing together empirical-analytical and normative approaches in socio-legal research. In particular it encourages cross-disciplinary panels that engage with transdisciplinary methodological and ethical questions, as well as reflections on disciplinary positionalities, blindspots and priorities. This could include discussions on how we study legal materials such as legal and judicial archives or law in action. Or what methodologies are suitable to grasp changes in legal consciousness? How do legal scholars relate to an empirical perspective in legal scholarship and how might this affect the conception of law in legal scholarship?