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Dr hab. Magdalena Słok-Wódkowska, prof. UW  
Chair of the European Law  
Faculty of Law and Administration  
University of Warsaw

### **Review**

#### **of the dissertation of Jennifer A.K. Maas pt. "The Influence of UN Sustainable Development Goals on Standarization in Transnational Law. A Legal Anayzis of Steering Effects on Extractive Industries"**

At the request of the Scientific Council of the Institute of Law at SWPS University, I present my review of the doctoral dissertation by Jennifer A.K. Maas entitled " The Influence of UN Sustainable Development Goals on Standarization in Transnational Law. A Legal Anayzis of Steering Effects on Extractive Industries." The purpose of the review is to evaluate whether the presented dissertation meets the criteria specified in Article 187 of the Act of July 20, 2018, Law on Higher Education and Science (consolidated text: Journal of Laws of 2024, item 1571). These criteria include verification of:

- whether the presented doctoral dissertation constitutes an original solution to a scientific problem,
- whether the doctoral candidate has demonstrated general theoretical knowledge in the field of legal sciences,
- whether the doctoral candidate has demonstrated the ability to conduct independent research.

## 1. Evaluation of the Topic and Research Problem

Ms. Maas has chosen as the subject of her dissertation the impact of the UN Sustainable Development Goals (SDGs) on standardization in transnational law, focusing on one specific aspect: a legal analysis of the mechanisms influencing the extractive industry. This is undoubtedly a highly significant topic.

There is no doubt that this topic is also highly relevant and timely. The UN SDGs are a key tool for promoting sustainable development worldwide. Consequently, examining their impact on standardization allows for understanding how global goals translate into specific regulations and norms. Particularly noteworthy is the selection of transnational law as the subject of this analysis. Transnational law (although somewhat controversially referred to as a "regime" on p. 7) constitutes a set of norms and regulations that go beyond specific systems such as international law, European law, or national law. All these systems, in some sense, are influenced by the SDGs.

The second element of the research problem concerns the impact of the SDGs on the extractive industry. Here too, the significance and importance of the problem are beyond doubt. Choosing the extractive industry as the focus of analysis in the context of SDGs' impact on its regulation must be regarded as entirely appropriate. This sector of the economy is particularly sensitive from the perspective of sustainable development goals, which makes their influence both highly visible and especially important.

This approach to the subject has not been previously presented or analyzed in this way. SDGs have so far been studied mainly from the perspective of public international law, focusing on their normative value or in the context of international environmental law. Therefore, analysis from the perspective of transnational law is particularly valuable.

The doctoral candidate has very clearly defined the research objectives. They are formulated comprehensively, encompassing the impact on transnational law, how this translates into achieving sustainable development goals in international economic law, and how this can be incorporated by the European Union. Particularly valuable from the perspective of evaluating the originality of the research are the final two questions

concerning the influence on changes or simplifications in the standard-setting process in the extractive industry.

## 2. Structure and Layout of the Dissertation

The dissertation is divided into three parts. The first part serves as an introduction. It does not provide an actual analysis of the problem but instead outlines the background for further discussion. Nevertheless, this part is undoubtedly essential for the subsequent analysis. It includes a significant specification of the scope of the analysis and the doctoral candidate's understanding of the concept of transnational law as applied in the dissertation. Although this part contains only one chapter, two or even three distinct sections are evident. The sections on climate change and natural resource management are natural and necessary. However, while the title of this section promises to show the interdependence between international law and the European Union, very little attention is given to the latter system and its interactions with international law. Instead, the author focuses on a brief (or even overly concise) presentation of various areas of public international law, such as financial law, investment law, and human rights law. While the table of contents suggests that the author also describes transnational law as a system and sustainable development, in practice, this is an attempt to summarize the relationships between these systems and the three aforementioned areas.

The second part of the dissertation, which addresses sustainable development and the extractive industry, is central to the entire work. The first chapter of this part (Chapter C) describes the extractive industry and its importance for economic development but also refers to standards and their formation. It is unclear why this chapter was placed in Part 2. Chapter C appears highly factual and, like Chapter B (from Part I), provides background for further analysis. Moreover, it concludes with a partial summary. In contrast, Chapters D and E constitute the actual analysis and the core of the dissertation. Chapter D focuses on transnational law, while Chapter E addresses investment law.

The final chapter, Chapter E, is also categorized as Part 3. This section both summarizes earlier considerations and includes reflections on new industrial sectors and the extractive industry in the context of emerging technologies. While the title of Part 3 suggests a

concluding nature, the title of Chapter F indicates (accurately, given the content) that the author analyzes new phenomena and the potential future impact of SDGs on new sectors (e.g., space mining) and new extraction methods.

I assess the structure of the dissertation quite critically. The topics and analyses are divided in a way that I find somewhat unclear. Although the division into three parts initially appears logical, after analyzing the content of each section, I consider this division unnecessary, especially since Parts 1 and 3 consist of only one chapter each. Furthermore, the content and even the titles of these chapters do not fully reflect the intentions suggested by the section titles.

The issues discussed are divided in such a way that topics recur across chapters. Although they are analyzed from different perspectives, the reader may struggle to understand which specific aspect is being analyzed at a given point. This division does not fully support a comprehensive presentation and analysis of the complex architecture of transnational law and the interrelations between various systems.

### 3. Substantive Assessment

The dissertation presents a highly uneven analysis. Some sections are particularly valuable, offering original insights and leading to interesting conclusions. For instance, the discussion on potential areas where regulatory control can be achieved in the extractive industry (p. 101) is noteworthy. Similarly, the considerations regarding changes in the content of investment agreements (pp. 185–189) contribute to a valuable overall analysis.

However, in many parts, the dissertation is chaotic, with a narrative that makes it unclear to the reader how one idea leads to another. The topic and, particularly, the scope of analysis chosen by the doctoral candidate present exceptional challenges in this regard. Analyzing transnational law requires a structured approach that illustrates how various legal systems intersect. Despite some attempts to show these interrelations, the narrative structure often leaves the reader unable to discern whether the discussion pertains to international, national, or transnational law.

Different threads are interwoven in the analysis. In Chapter B, for example, there is a cursory presentation of financial and investment law, which appears to be central to the analysis. Yet in Chapters D and E, the analysis does not seem to build on what was presented in Chapter B, which diminishes its depth.

Investment law serves as a good example. In Chapter B, it is discussed superficially, and, controversially, the author classifies WTO law as part of investment law. This leads to an equally superficial description of various system components. The author does not address the main instruments of international investment law, typically defined as the law of investment protection based on bilateral investment treaties (BITs) and the unique system of dispute resolution (investor-state dispute settlement, ISDS). This system's unique qualities are only mentioned in general terms, without specific details.

Moreover, the dissertation refers to changes in investment law or its interpretation but does not provide details or analyze case law that supports or contradicts these claims about the influence of sustainable development on investment law. No examples are provided in either Chapter B or Chapter E. Instead, the author describes investment law in selected national jurisdictions.

In this context, there is also no convincing explanation of the criteria for selecting these jurisdictions or their connection to international investment law. Similarly, in the case of financial law, the different layers of analysis are not well-defined.

The value of conclusions, particularly regarding the impact of SDGs on investment law, is significantly diminished by the fact that, although the author analyzed changes in phrasing, these were not confronted with practice, especially case law. This omission is a serious flaw, particularly in the field of investment law, where the jurisprudence is both extensive and ambiguous. Key rulings, such as the heavily criticized decision in the *Eco Oro* case (*Eco Oro Minerals Corp. v. Republic of Colombia*, ICSID Case No. ARB/16/41), play a crucial role.

This raises questions about whether sustainable development goals can be implemented in judicial practice and whether arbitration panels (in investment or other cases) are willing

to consider evolving content or standards established in national law. The dissertation does not, in my opinion, adequately address these questions.

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