

# Just Transition to Ethical Sustainability: Not Why or What but How

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## Abstract

*Ethical sustainability would require that social and ecological matters are taken as seriously as economic considerations in political and legislative decision making. Currently they are not, although international policy makers are well aware of the requirement. We examine philosophically the possibility of making a shift transition from the current situation to ethical sustainability. Our main tools in the task are a thought experiment and the thin concept of the rule of law. We postulate, in the thought experiment, that all nations of the world have become democratic and law-abiding and agree on the need for the shift. The remaining question in this imaginary case would be how to effect the desired change. We present the formal conditions of the rule of law and apply them first in an ideal situation to the key aspects of a just transition to ethical sustainability and then to a non-ideal real-life case, that of fur farming.*

**Keywords:** *European Union, green shift, just transition; justice, sustainability, ethical sustainability United Nations.*

## Introduction

Climate change and environmental degradation are well-documented facts. Whatever their cause, human action is needed to halt them and to reduce their harmful impact. On a declaration level, the situation is recognized, and the Secretary-General of the United Nations António Guterres has repeatedly urged member states to stop the “suicidal war against nature.” In reality, however, societies keep relying on forms of production and consumption that continue to make things worse. Culprits can be found on several levels: profit-maximizing corporations, self-serving governments, consumerism, corruption, legitimate livelihood struggles, and so on. But identifying the guilty ones – practically everybody – has not proven to be particularly useful. This is why we propose a more positive, if conditional, approach, that of a thought experiment.

Imagine that one day all the nations of the world have become sensible democracies. Together, their legitimate governments have full control over all other political agencies – business enterprises, criminal organizations, interest groups, and the like. In a crucial summit, the nations decide, unanimously, that their first priority is to effect a just transition to ethical sustainability. They know that it should be done. The problem is that they do not know how.

Our presentation proceeds in three main stages. We first define justice, ethical sustainability, and just transition. In this, we use the results of our earlier investigations on the varieties of equality. We then go on to analyze how the unanimous nations could bring about the desired change. Rule of law occupies a central role in this. We conclude by considering how some of the lessons learned from the ideal solutions of the thought experiment could be applied to non-ideal real life.

### *Justice, Ethical Sustainability, and Substantively Just Transition*

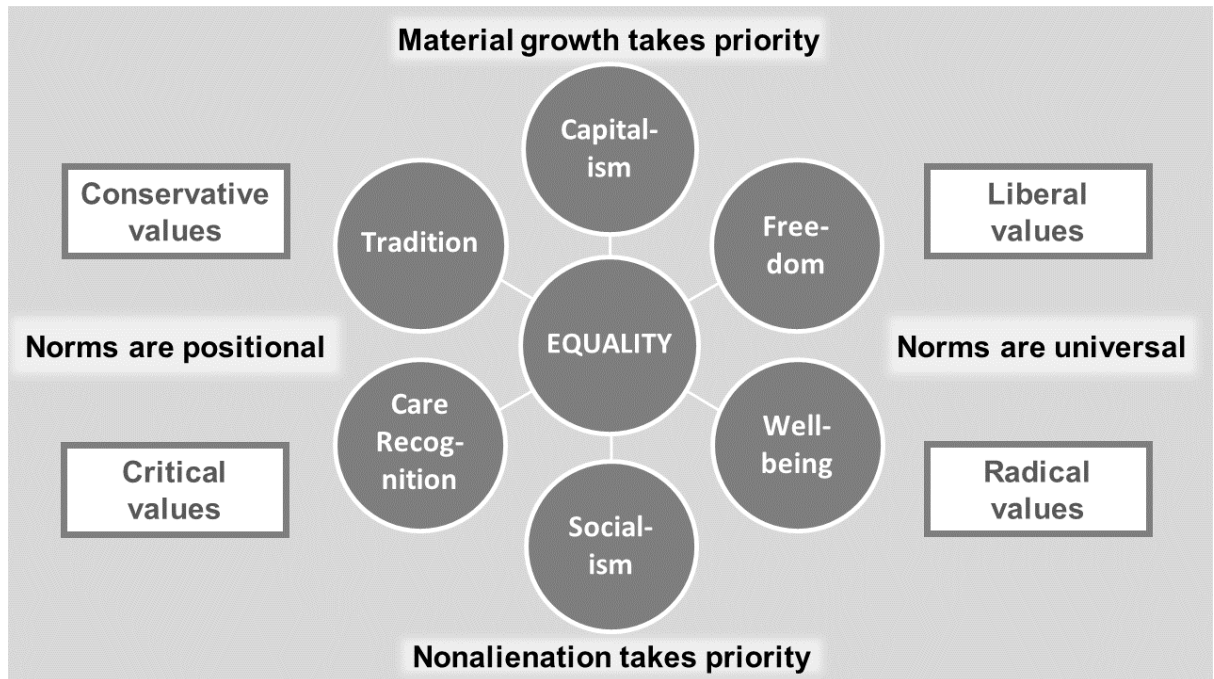
Justice can be defined formally or substantively. Formal definitions in moral and political philosophy usually require that like cases are treated alike, everybody’s interests are taken equally into account, and all those affected by decisions can have their say in making them. Substantive definitions differ in philosophy according to theory backgrounds and in political practice according to ideologies and group interests. The formal and substantive approaches are often intertwined.

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We have in our previous work identified some of the main substantive views and placed them on a map of justice according to their interpretations of “like cases,” “everybody,” and “all affected.” These are represented by the circles on the left and on the right in Figure 1.



**Figure 1** Substantive views on justice according to their assumptions

In the positional views on the left, some people should receive more attention than others due to their relations either with one another (care and recognition) or within their communities (tradition). In the universal views on the right, everyone should receive the same attention as beings deserving their individual self-rule (freedom) or need satisfaction (well-being). Additionally, the figure depicts a socioeconomic dimension. On the top, capitalism prioritizes material growth; and at the bottom, socialism prioritizes nonalienation. Conservative and liberal views ally with capitalism, critical and radical views with socialism.

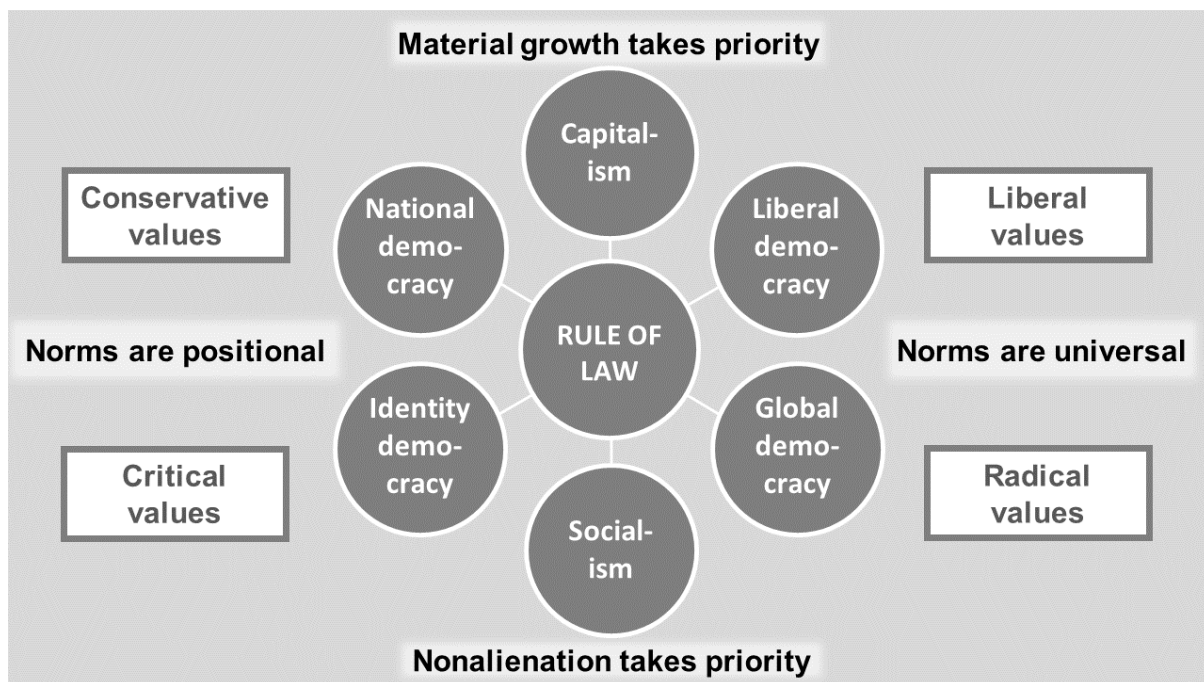
We have interpreted this map of justice in various ways in different contexts. In one reading, our argument is that ethical sustainability cannot be achieved without assigning social and environmental matters intrinsic or fundamental value. The standard United Nations approach, based on a specific understanding of sustainable development goals, fails to do this. It recognizes social and environmental problems but relies on solving them by economic means. The upper half of the map receives all the direct attention, the lower half is left to be addressed by a trickle-down effect from material growth. More goods and services will bring both welfare to the people and relief to the environment without infringements of either freedom or tradition.

The model reconciles freedom and tradition by compensations – and by ignoring the possibility of anti-democratic politics in the conservative camp. The latter is a source of potential conflict in many Western nations but the issue has not been confronted head-on by proponents of liberal views. Populist rightwing parties are offered governmental roles in the hope that this will teach their leaders more mainstream manners – something that may or may not happen. In the meantime, out-of-date production methods in farming, mining, and industries are allowed to continue although their detrimental social and environmental impacts are well known. To the – small – degree that they are run down, the profits gained from modern technological innovations are expected to cover the losses of those who have to change their ways. The model aims at economic sustainability in the hope that this will also bring about all-encompassing ethical sustainability. It does not.

Just transition in this framework would mean concrete action on the social and environmental fronts – and the unified governments of our thought experiment know it. They know where we are and they know where we should be going. But how? Should there be laws and policies, bans and regulations? Probably yes, but how can these be formulated and implemented justly? Here we enter the domain of formal justice.

### *Formally Just Transition and the Rule of Law*

In the sensible democracies of our thought experiment, decisions would be made and implemented in the spirit of equality – the value and norm shared in some sense by all the substantive views on justice. Already in current political practice, this has been operationalized as the observance of the rule of law. Figure 2 shows its place among the substantive varieties.



**Figure 2** Rule of law as the key to making and implementing decisions

The substantive views on justice are depicted in Figure 2 as forms of democracy in the real world. The national and liberal varieties have for some time been in concrete political competition in many Western countries; while the identity and global versions are emerging in more idealistic minority and civic activity.

The rule of law is a concept with a long history and many interpretations but the so-called thin definition offers a starting point. The attribute “thin” here refers to the exclusion of substantive moral and ideological principles. According to a classical definition, laws should be general, public, prospective, intelligible, consistent, practicable, stable, and congruent. Let us unpack the most important of these to see how they work in legislative and policy-making practice.

The requirements of generality, consistency, and congruence highlight the difference between this notion of the rule of law and substantive justice. Laws and policies should not ideally target specific individuals but even a general description can pick out well-defined groups, as in: “All those who have four Finnish grandparents must ride in the back of any public bus.” Consistency and congruence demand us to take a step back and recognize the more basic principle at work here, namely that of segregation on ethnic grounds. In liberal democracies, we are accustomed to thinking that this is unjust – but the thin concept of the rule of law cannot in and by itself rule it out.

That laws and regulations have to be public and intelligible means, minimally, that they are not secret and that, at least with the help of the legal profession, they can be sufficiently comprehended by the subjects. A debate that has been ongoing at least since Jeremy Bentham launched his attack on the English legal system in 1789 concerns the need to extend this principle further. It would seem reasonable to insist that the content of law be made easily available and understandable to lay persons even without the mediation of jurists and jurisprudents. Outcome-oriented liberals and radicals, following Bentham's lead, root for the extension more readily than rule-directed conservatives.

Apart from the intelligibility of the product of lawgiving, the transparency of the process can be in need of attention. It would serve the cause of formal equality to keep all those affected informed about the workings of the legislature; and it would strengthen civic involvement and stability to hear people in matters that concern themselves. Education and arrangements supporting inclusion and participation are essential tools in this. A further boost to sensible democracy would be to insist that political decision-makers do not hold their negotiations in secrecy or have hidden agendas. We shall address the plausibility of these ideal requisites in real life as our narrative unfolds.

That laws should be prospective rather than retrospective means that they should not mete out punishments for deeds committed before the legislation has come into force. Citizens could not trust the stability of a regime that can make legal action illegal afterwards. This innocuous maxim is riddled with philosophical questions. Does it imply that common law systems, with their interpretation of precedents, should be abandoned? Bentham certainly thought so and championed codified law, instead. And does it mean that officials involved in genocidal activities cannot be brought to justice if their nations did not see their behavior as illegal at the time? This question divided jurisprudents in the aftermath of the Second World War.

The latter conundrum has direct implications for a just transition to ethical sustainability. If actions contributing to social alienation or environmental decay are seen as moral wrongs, an attitude of "Serves them right" may influence the way past oppressors and polluters are regarded. The popular verdict may be that "They should have known better," like in the case of those involved in Nazi atrocities in Germany and its surrounding occupied countries. This natural law spirit – that laws must be moral – is admirable but not a part of the more positivistic thin take of the rule of law.

What does all this mean in terms of our thought experiment, then? The leaders of the sensible democracies know that they have to stop social alienation, environment degradation, material over-production and over-consumption, human overpopulation, and the human-induced extinction of other species. Since much of the harm has already been done, they also know that they have to mitigate the impact of past mistakes. Whatever the details of these, laws and regulations would have to be forged and implemented. Global capitalism, uncurbed, cannot be expected to effect the changes needed. Our imaginary leaders, however, have the power to curb global capitalism and at least try to retain the benefits of economic and technological innovativeness without inflicting further damage.

The role of the thin concept of the rule of law here is straightforward. It can be encapsulated in a series of instructions:

Keep regulations general so that they affect all alike.

Negotiate all the tenets of the new order transparently, taking all relevant interest groups equally into account.

Do not hide your intentions from the people or from your negotiation partners.

Present all new regulation in an understandable form and publicize it widely.

Educate citizens to understand what is being done and why.

Do not punish anyone for pre-legislation deeds.

Punish everyone impartially for post-legislation wrongdoing.

Create a consistent, comprehensible, and stable system that all subjects of the law can democratically accept.

Remembering that in the thought experiment the sensible democracies have their citizens' full support for the transition, abiding by these instructions would, we believe, go a long way to ensuring a safe and effective transition. The rule of law, even in its thin form, could help to answer the question "How?" The question "Why?" is in this setting redundant (the nations have made the decision on their own good grounds) and the question "What exactly?" we leave to the competent experts whose help the leaders can solicit.

#### *Ideal and Non-Ideal: Lessons for the Real World*

We have now laid out how, in ideal conditions, the thin rule of law could provide inspiration to lawgivers and regulators. In the real world, conditions are non-ideal and the applicability of some of the suggestions limited but there are still areas in which our approach can show room for improvement. We shall use the example of the future of fur farming to illustrate our case.

When the aim is a just transition to ethical sustainability, fur farming has no long-term future. Popular attitudes have turned against it in most parts of the world; it is not seen to serve any reasonable purpose; it inflicts pain and anguish on millions of sentient beings; and it is a hothouse for the emergence of pandemics that threaten human lives and health globally. The practice has been banned in an increasing number of countries and regions; and the European Union is considering its prohibition. The situation is as clear-cut in the real world as it is in our thought experiment. The implementation, however, needs thought.

An international ban on fur farming would, of course, be general in the sense that it would apply to all entrepreneurs in the field, actual and possible. It would, however, be quite specific in that those affected would be the countries that do not yet forbid the practice and in those countries the individuals and families involved in the business. To avoid accusations of partiality, lawgivers should select the justification of the ban carefully. Popular opinion as such is a poor guide for legislation, so a choice would have to be made between nonhuman- and human-based reasons. The case has for long been advocated on animal-welfare grounds but from the viewpoint of the rule of law this may be suboptimal.

Fur farmers could argue – they do not but they could – that if animal welfare is the reason for abolishing their profession, all industrial animal production, not just theirs, should face the same destiny. What applies to minks and foxes applies to pigs, cows, and chickens, too. And since no one wants to close down meat factories, fur farmers should be left in peace, as well.

Strict ethical sustainability could in fact support a transition to a vegan lifestyle, but as long as meat eating continues, it could be technically more prudent to employ the human-based argument. Fur farms should be shut down because they, unlike meat and milk farms, are a well-defined public-health hazard. The end result may not fully satisfy the disagreeing parties but it would not violate the minimum requirements of the rule of law, either.

The clash between human-centered and other values leaves some residue when it comes to prospectivity, though. Those rooting for nonhuman freedom and wellbeing can feel that in losing their livelihoods the former fur farmers get what they deserve; and the farmers can sense an unjust retrospective punishment in such attitudes. To avoid these appearances, some further maneuvering might be in order.

Going out on a limb here – we are philosophers, not lawyers or civil servants – the following arrangement could alleviate some of the major concerns:

First, call the time of passing the ban Year Zero in this dispute. No looking back, just regulating for the future.

Secondly, make reasonable adjustments to find new occupations for the practitioners. This would be in everyone's interest, lest they become a burden to themselves and to society.

Thirdly, define a transition period, say, of three years, for the closure. That would give time for the adjustments to take effect.

And fourthly, pay incentivizing compensations to fur farmers who run down their businesses ahead of time. The full sum for folding now, two thirds in a year, and one third in two years. The compensations would make the shift easier for the farmers, expedite the process, and share the economic cost of the desired change between all taxpayers.

Experts know better but this proposal could be a starting point to a discussion on how to transit justly towards ethical sustainability both in this and other matters.

One potential challenge to any rational solution in agricultural and forestry issues is that there are unions that may work on a logic of their own. Banning any form of farming can hurt their interests in that they may lose members and political influence. This kind of thinking would, of course, mean putting the union's good before that of the membership, so it would defy the institution's *raison d'être*. Perhaps we can ignore it as wrongdoing that need not be embraced in an ethical analysis.

A fact that we cannot ignore, however, is the international dimension. As long as we do not have a global federal government – and that is not in the cards anytime soon – nation states can argue that the prime task of their leaders is to promote their own citizens' wellbeing. In negotiations, this leads, inevitably, to opaqueness instead of transparency; to neglecting foreign interests instead of taking them fully into account; and to hidden partisan agendas instead of openness and honesty. In the fur farming case, the nations still allowing the practice have, no doubt, used the whole arsenal in pursuing their agenda.

A way of inoculating the system against national egoism could be to increase general awareness on the shenanigans of international politics. Upright citizens may not know about the behavior of their representatives – armed with the knowledge they could, in theory, prompt their representatives to assume wider perspectives. This would move international decision making a step closer to observing the spirit of the thin rule of law. In practice, however, this is unlikely, at least for the time being. The deepening of environmental crises may change the situation in the long run, though.

The suggestion that fur farmers should receive compensations could present a challenge to the conditions of generality, consistency, and congruence; or to be more precise, through them to national economies. Since fairness dictates that like cases are treated alike, the payments should also be made available to other animal producers. The recipients would in this case be hundredfold and any sizable incentives would become too costly. There are, however, two ways to deal with the problem.

We have already proposed that, if the thin notion of the rule of law is our legislators' guide, the fur farming ban should be based on public-health reasons. The same threats are not apparent in factory food production, and generality, consistency, and congruence would not demand compensations to meat and dairy farmers.

If, for some reason, fur farming is prohibited on grounds of animal welfare, the solution is to keep the payments so low that they can be made to all affected. In that case, of course, it would also make sense to close down factory meat and dairy production altogether.

## Two Conclusions

We have proposed that a thin notion of the rule of law could be helpful in effecting a just transition to ethical sustainability. It would remind legislators and policy makers of at least two major obstacles that prevail currently. First, issues are seen in an ideological light that turns necessary livelihood shifts into perceived moral punishments. This should be avoided, if necessary, by justifying laws and regulations

creatively (as in the public-health fur-farming ban). Secondly, policies and treaties are forged in secrecy and with hidden agendas both internationally and domestically. Although the motivation may be noble – to further the interests of the groups the negotiators are primarily responsible for – this can be a major hindrance both to observing the rules of justice and to reaching a state of ethical sustainability.

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- This is as far as our philosophical contribution goes regarding the constructive side of effecting a just transition to ethical sustainability. By the list of suggestions, we are already trespassing into the domain of political and policy studies. When it comes to the real world and its non-ideal conditions, philosophers have little to say with firm conviction. We can only offer some home truths, based on our seven-year collaboration with Finnish ministries and parliamentary committees on bioeconomy and its role in national and European Union attempts to steer away

from the detrimental carbon economy that still looms large over both regional and global affairs. This is what we shall do in the remaining paragraphs.

We are not aware of any reliable analyses into this aspect of the workings of unions. It would be an idea to examine it, for instance, under the title “If Union X were a rational agent, what would it do and why?”

At the early stages of the current project, we attempted to make sense of ethical sustainability as a rational consideration of all the relevant consequences of policy decisions and of the role of truth-telling in dealings with the citizenry but these aspects are yet to be fully developed.