

# **INTRODUCTION**

**International University College of Turin**

**Independent Policy Report**

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# INTRODUCTION

## **Abstract**

The current crisis is not “only” about finance, or only about economics or policy. The truth is that the current Western standard of living is unsustainable. Should the “rest” share the model of development of the “west” our planet will simply not be capable of resisting the growth in consumption and pollution. Within this fundamental setting of scarcity in resources, one cannot use the rhetoric of the “end of history” as the polar star for growth, development and ultimately happiness of the whole world, proclaiming one’s faith in technological innovation as a condition sufficient for survival. On the contrary, there is no long-term future outside of a radical cultural shift banning the self-serving Western perspective. A future can be gained only harvesting all cultural inputs available. Thus, the beginning is necessary of a process aimed at the development of a legal system that is much less about creating an efficient backbone for an exploitive economy and much more about a vision of civilization, justice and respect where the laws of nature and those of the humans converge in a sustainable long-term philosophy.

## ***1. A Malthusian Picture.***

Since September 2008, when the crisis started to hit hard in the United States, the ghost of Lord Keynes seems to have supplanted that of Von Hayek as the most cited hero of mainstream economics. In this Report, in order to justify and ground our policy claims, we wish to evoke Malthus a towering (in a way sinister) economist that should enter the hall of fame of those that from the past brutally point at the tremendous challenges in our way into the future.

This Report is not the work of economists, and it is certainly not grounded in the mainstream. Nevertheless, from the perspective of a small but highly cosmopolitan community of lawyers experienced in approaching economic issues, we beg global policy makers to think of the current crisis as a Malthusian one. It is not “only” about finance, nor is it only about economics or policy. We submit that the truth is much more uncomfortable and dramatic. The current Western standard of living is unsustainable. Should the “rest” share the model of development of the “west” our planet will simply not be capable of resisting the growth in consumption and pollution. (Some observers believe we would need five Earths!).

Within this fundamental setting of scarcity in resources, using the rhetoric of the “end of history” as the polar star for growth, development and ultimately happiness of the whole world is simply a cynical lie. Over time this lie has been supported by a thick ideological apparatus such as the one that even today

proclaims its faith in technological innovation as a condition sufficient for survival. After twenty years, this fundamental lie should finally be recognized even by the “commanding heights” of the global economy. Technological innovation may be necessary but it is certainly not sufficient. There is no long term future outside of a radical cultural shift banning the self-serving Western perspective thus letting a new vision unfold. A future can be gained only harvesting all cultural inputs available out there. Either the future is going to be plural and cosmopolitan or it will not be.

## ***2. A Science of Exploitation.***

As Carlo Cipolla once said, our Western-lead development experience can be equated to that of a very smart child that finds the key to the safe-box where generations before him had hidden a family treasure. The kid quickly specializes in the best technique to have fun spending all the money he has found. In the West, beginning with the Industrial Revolution, we became increasingly skilled in exploiting the treasure within a very short term horizon. We have even invented economics as a “science” grounding such exploitation (which unfortunately has never been only physical but also human), and our legal institutions have been developed to that end. Individualized property rights, freedom of contracts, corporations as a nexus of contracts, fault liability and many other private law institutions enforced by a professionally trained judiciary have all been developed as the most efficient institutional setting possible. Societies that have not fully deployed this toolkit have been singled out as “lacking” the rule of law. The legal and institutional aspects of the Washington Consensus, “good governance” and the “rule of law” have been imposed by means of “conditionality” often accepted, perhaps in good faith, by the leadership of many peripheral countries.

## ***3. The Bankruptcy of Two Political Interpretations of the Same Approach.***

Socialism and Capitalism have been the two most important, and apparently opposite, political models through which modernity developed its exploitive skills and unsustainable consumption behaviors. The leading epiphany of the former has collapsed in 1989. Almost exactly 20 years later we may be witnessing the collapse of the latter. We have no business here to stress the staggering historical parallels between the political role of Secretary General Gorbachev of PCUS at the beginning of the end of the Soviet Empire and that of President Obama of the United States at “the end of the end of history” as we have titled our Report. But we have a strong argument to make that a new truly cosmopolitan approach to the law and legal institutions is needed; that the current dominating global vision of legality and institutions must declare “intellectual bankruptcy”; and that a new

beginning based on a genuine sharing of this planet among all its living inhabitants requires a completely new vision of the function and role of the law.

We argue here for the beginning of a long, painful but necessary process aimed at the development of a legal system that is much less about creating an efficient backbone for an exploitive economy and much more about a vision of civilization, justice and respect where the laws of nature and those of the humans converge in a sustainable long term philosophy.

The bankruptcy of the current global institutional system is clearly exposed by data on global inequality. Suffice to think that some 45% of the global working force lives on less than two dollars a day. Law is about justice and sustainability. Global law is about global justice and sustainability. No lawyer can observe this catastrophic state of affairs without a mote of rebellion.

#### ***4. The Philosophy of This Report.***

The aim of this Report is to translate such mote of outrage into some suggestions capable of making the law about the solution rather than about the problem as too often it has been in the modern historical experience.

From our premises some consequences follow: we will only offer suggestions that are truly cosmopolitan, and that try to take into consideration the interests of humankind and not that of discrete States or aggregate of States. States may well be instruments to implement a global policy and a global vision, and most likely they are the most powerful instruments we can deploy. Nevertheless they must be a mean, and not an end. Consequently, we must not assume that the interest of states and those of their citizens are necessarily aligned. There are poor people in rich countries and rich people in poor countries. What we aim at is beginning the path towards the urgent construction of a “people’s rule of law” and not of a global legality serving state-based geo-political interests.

Cosmopolitanism requires a “dialogical dialogue” and the immediate abandoning of any feeling of superiority. The fact that a society is more technologically advanced does not imply that it is culturally superior.

Thus our effort has been to harvest “from the bottom up” a catalogue of sensitive issues that must be openly and humbly faced by the international elite to avoid coming up with more self-serving ideology. We submit that basic research is needed before jumping to the conclusion that global legal standards are useful or even only that they are possible.

The IUC Report is based on a general global approach in search of a new paradigm of globalization and social relations among the inhabitants of the world. The new paradigm is based on communication, long term trust and respect, rather than on economic, financial and military might.

## **5. *A Grand Mirror Project for the People's Rule of Law.***

Law, in both its local and global dimension, is mostly an intellectual construct. In a functional perspective, the one dominating today in the global conception, it is a public good, an infrastructure of communication between human groups as important as airlines or freeways. Despite the domination of this vision, we should not forget that law is also a cultural device, a common intellectual vocabulary (usually local in its nature) used to express the sense of justice shared within a discrete social group. This sense of justice shapes the local identities. Today we are living an intellectual earthquake that has destroyed the blind belief in law as a mere technological device. The challenge, beginning from the foundations of financial markets, all the way to the building of a global legal system capable of re-gaining control over the economy, is to shape a global identity around a grand project of a global legal order. This project should be capable of making a sense of global justice emerge. And this new born cosmopolitan sense of justice should be deployed in organizing the institutional setting of the new millennium, after the “false start” of the end of history.

The fallen Soviet model served in the last twenty years as a negative model, mirroring which the “end of history” could design itself. Privatization, a light State with the demise of welfare institutions and of public bureaucracies, the demise of politics in favor of technocracy and professionalism, a free market economy ideology, competition as a constitutional value, the demise of protective labor law, the celebration of flexibility, deregulation, outsourcing, downsizing and financial innovation, the theory of comparative advantages and many other notions have been capable of conquering the stage because at the antipodes of Soviet socialism. Today's crisis will become a “civilizations saving” opportunity if we use the “the end of history” its single thought based on the Washington consensus as a mirror to learn from mistakes and develop a workable methodological platform for the daunting task that is ahead of us. Because it is an issue of global sustainability that motivates our work, ultimately an attempt to transmit this world to the generations that will follow us, the sustainable/unsustainable opposition might perhaps lead us in the current state of emergency to act quickly in the right direction, or at least to avoid moving in the wrong direction.

## **6. *The Unsustainable Single Thought: Foundations of a Global Tragedy of the Commons.***

The end of history has been characterized by a Western-centric single thought. It has, moreover, been characterized by much unilateralism by the most powerful States at the expenses of the weaker. We submit that both Western-centrism and unilateralism have been affecting the first policy reactions to the crisis. A tragedy of the commons is well in sight. In fact, the variety of un-coordinated domestic

“stimulus packages” that have been made necessary by the U.S. unilateral approach have produced a rush to “business as usual” through encouraging consumption that goes exactly in the wrong direction. Like the over-grazing and over-fishing communities described in the famous paper by Garrett Harding, each country tries to stimulate as much as possible its own economy and to externalize the costs on everybody else. Indeed we should learn from the failures of the end of history that lower consumption and saving is a commendable attitude in the long run, and that only an agreed-upon gradual reduction and change of consumption habits, especially in G7 countries can avoid the “tragedy of the commons”.

The rush to this tragic path leading to a foreseeable final crash has been triggered by ideological assumptions that today can be openly challenged even in high places, but that until a few months ago were political taboos whose infringement would have produced total marginalization. The end of history and its assumptions were simply an ideological manifesto of non sustainable development.

We can now openly submit that the model of world exploitation led by unlimited profit is no longer sustainable. We are now all aware that there is no such a thing as a “self-regulatory market”; markets are defined by law; laws are informed by values; prohibitions and incentives are crucial and unavoidable to take care of the long-term. The law should not be solely meant to advance the unprincipled animal spirits of the stronger market actors. The short term which leads to tremendous financial speculation is not sustainable. Incentives and regulations must point to the long term.

The single thought ethnocentric approach is not sustainable. The law should be cosmopolitan, harvesting all the “best practices” wherever they are located. In coping with the crisis we must think plural: “single-thought” solutions are not sustainable. Pluralism of solutions/ paradigms is sustainable; civilization, what ultimately the law should strive to save, is not “natural”, but “historical” and “political”.

## ***7. The Priority of a More Equal Distribution.***

Redistribution of resources from the rich to the poor, through taxation and other direct legal measures were taboo at the end of history. Economics was about efficiency, not about distribution. Today we know that the poverty of too many and the wealth concentrated in the hands of too few is not sustainable. Poverty, like finance, is highly mobile and of “global” quality. The denial of elementary material rights is not internationally sustainable from the legal, moral and economic perspective because it triggers biblical migratory fluxes that produce tremendous deprivation and losses. Sustainable global law must be inherently redistributive getting over that ideological taboo. These needs of long term redistribution must be the backbone of any regulation of global financial activity.

Both the Soviet experience and the end of history have failed because of their highly materialistic spirit. But the human experience is not only about the physicality of the world. It is not only about having but also about being. It is about conceptual and moral sustainability that eventually translates into institutional settings. This is why we can hope that new sustainable ideas will bring about new sustainable institutions.

The end of history banned genuinely critical thinking to develop a single thought that has been particularly infectious within the leading Economics departments especially in the United States. This is why today it is very important that genuine critical thinking be present in the international debate over the future global institutional setting. We simply cannot afford to assume that “the law” might be part of the solution before thoroughly considering that, mostly because of its pedigree of exploitive ethnocentrism, there are good reasons to believe that it has been part of the global problem. Moreover, the very idea of law has been re-invented at economist’s image. This is not sustainable because it reduces the law into a mere technological tool and legal thinking into mere social engineering banning distribution from the radar screen.

Any attempt to redesign the global system, we argue, must now rethink the very foundations of the model of capitalism which, in the last two decades, has been legitimized by market fundamentalism, and whose drawbacks are finally beyond mainstream denial thanks to the present global crisis. The evidence of the failure of such a model is no more a question of ideology, of personal taste or political preferences. It is history itself which gives evidence of its failure.

## **8. *Elements of a Sustainable Vision.***

The global agenda should implement a reasonably utopian vision.

We venture to submit that the economic emergency makes it legitimate to advance at least some broad political guidelines, logically and organically linked with each other, and aiming at the safeguard of the weaker rings of the chain of global survival. In openly acknowledging our perspective we need to point at the following:

First, we side with the losers of social transformations.

Second, a different relationship between the local and the global dimension must be outlined. Attempts to impose global law (or regulation, or standards) from the top down by means of more or less violent use of conditionality has failed and must be abandoned. From the local to the global should be the direction of a legitimate legal flux that is potentially a solution, and not itself a problem.

Third, a genuinely cosmopolitan approach to globalization must grant to the periphery the same dignity of the center, and must place without hypocrisy responsibility where it belongs.

Fourth, a long-term policy vision of world economics and finance must take into account the dramatic threat to a natural and balanced evolution of the planet produced by technological development coupled with short term individualism.

Fifth, a capacity to outline a different timing for action must point out what must be done immediately, its limits, and the need to invest on the middle and long term horizons, in order to correct what are structural cyclical problems of the capitalist model of development that has prevailed in the near past.

Within these broad political beliefs we argue that the law should not serve as a mean to survive from crisis to crisis. Nor should it attempt to transfer as much as possible the social costs to the weaker majority of the people by socializing the losses and privatizing the gains. To the contrary, the law should serve to build new foundations of the world order, which will go in the direction of a sustainable and peaceful evolution of the planet. We are all living in the same home. There is no possibility for anybody to exit from this world; thus, we must stay all together and, if we wish to survive, we must look for what unites us and for what saves us, rather than for what divides us and what destroys us. Not an easy task, indeed. However, the only reasonable one if we wish to save the planet from global destruction and endless pains.

### ***9. Sheltering the Innocent from the Consequences of the Crisis and Making the Culprit Disgorge the Gains.***

In this broader perspective, the first task we are now facing is an urgent one: we need to avoid that the negative consequences of the current financial crisis keep spreading out, hitting even more the weaker parts of the global society. We need to propose a solution rapidly, answering to the short-run economic challenges faced by the crisis. Nevertheless, we shall not forget that this first ‘rapid-response’ solution to the crisis of the financial markets is just the first step of a long-run major political global project. It is thus imperative to overcome the logic of the “socialization of costs and the privatization of benefits”, which has been the dominant pattern of corporate capitalism and which should make the critical observer aware of the fundamental continuity of market centrism, even in the current tragic juncture as witnessed by the already mentioned first unilateral reactions such as the “stimulus package”.

In approaching the current situation, the first and most urgent break with the Washington consensus must be found in the reconsideration of the relationship between capital and labor. A new governance of globalization and new models of corporate and fiscal governance are necessary to satisfy the needs of a fair distribution of the cooperative surplus. It is the law which needs to provide principles to distinguish between those that work for the community and those that work just for themselves. The era of the “trickle down” rhetoric that at the

end of history has been deployed to legitimize, legally and ethically, the unlimited accumulation of fiscally irresponsible capital must be over. Accumulation in the hands of the very rich does not “naturally trickle to the poor” and this is true both within countries and across them. This is again a professional lie that must be exposed. The era in which the law protects as if it were a fundamental human right the corporate multiplication of capital gains obtained by playing as in a Casino with the savings of honest and humble households and individuals is over.

There is a fundamental difference, and the global sense of justice can recognize it despite the staggering cultural variations of the global societies, between the savings of the hard working low and middle classes and the executive bonuses and stock options that are responsible of the doping of the international financial markets. Good principled law is about distinguishing and not hiding behind formalistic and biased visions of “the rule of law”, such as those recently evoked by members of the Obama administration when telling that they could do nothing about the AIG executive bonuses being in a “rule of law” country that protects contracts.

### ***10. Global Law is about Reconstructing the Public Sector and Protecting the Commons.***

Global law, in whatever form and wherever produced, cannot be seen as an end in itself. It is a mean to protect interests that are worth being protected and that humankind collectively decides are worthy of such protection. The very fact of being an inhabitant of this planet, wherever located and no matter how humble in the circle of life, entitles all people to global respect and legal protection. This approach is reflected in the claim for a new broader vision of the commons and of the public goods. Not only individuals but also communities have rights. Not only humans but also nature, as recently recognized in the pivot experience of the new Ecuadorian Constitution. Not only current generations but also past generations are entitled to respect (cultural property protection). Future generations must be guaranteed a valuable inheritance and it is the law of today, if capable of restraining self-serving short-term visions, which might pose the political cultural and legal conditions for this protection to be effective. At the end of history, corporate corruptive behavior has determined the plunder of public property and its transfer by law in the private domain. Privatization and the rhetoric of superiority of the private sector have been massively deployed and supported by mainstream legal and economic pundits, resulting in the transfer outside of any formal guarantee of massive amounts of the public treasure into private hands. This phenomenon affects not only tangible property but also most of the services and activities that are the province of the public sector because the logic of the profit is fundamentally incompatible with them. Welfare, social housing, education, healthcare, the care of the elderly but also prisons, energetic and

foreign policy and even the war have been declared “up for grab” with massive transfers of public resources into corporate hands.

The long term consequences of these policies are devastating both in the industrial countries of the G7 and elsewhere. In the first context today there is simply no more public sector (with the possible exception of the War machinery) capable of directly acting and “doing things”. Public law has been reduced to a system of rule making aimed at guaranteeing “competition” in the private delivery of public services. State owned economic players have been delegitimized as inefficient and privatized. Their role of social stabilization control and ultimately long term economic order (stable employment, social benefits etc.) has been ignored. Even when a political decision is made that public intervention is needed, such as in front of the financial crisis, paradoxically and dramatically the funds to act are not given to public actors (now inexistent) but handed out to investment banks, law firms and other private actors (very often in conflict of interest) making them continuously stronger than public agencies, in a pattern of continuity with the end of history that must be stopped now. The fundamental problem is that today the global public sector is too weak not too strong compared to the private sector. There are no global agencies strong enough to assert their authority on global private actors, and in the development of such global “biting” public sector we should invest. In peripheral countries, such professional and strong public sector that requires resources both physical and human never developed. Its absence has been the most serious reason of the rampant corruption and global corporate plunder and the WB and IMF have been proactively engaged through conditionality to preclude it from developing.

At the end of the end of history, learning from these mistakes we should begin immediately an ambitious global process capable of re-publicize by means of the law, whatever has been privatized outside of very serious reasons. Reconstructing is harder than dismantling but the construction of a global public service (of course with local variations and articulations) is the most exciting challenge in making human capital unfold that is ahead of us. Doing so does not pollute and is at the core of a long term transformation capable of digging the many “have nots” out of poverty while simultaneously limiting the few “haves” in the accumulative frenzy, and thus reaching a sustainable world where it is possible and worth living.

This is why we need a fundamental rethinking of the very notion of rights, of public goods and of commons. It is only through the good public minded government of the public that we can find the resources to tame the excesses of the private greed.

## ***11. Taking Political Ideological and Legal Control of Global Economy.***

To be sure, this urgent plan to save human civilization(s) by means of global law requires the development and the acceptance in the West (especially of the G7 countries) of a different relationship between man and nature, between the individual and the community, between the haves and the have nots. In short we need the courage to declare bankrupt and overtake the Western liberal individualistic vision of freedom that has characterized the end of history and to revamp of an organic, communitarian, pluralistic, quality based approach to the political economy. We need to begin a serious intellectual reconsideration of the myth of local and global “competition” and substitute it with a cosmopolitan and internationalist idea of “cooperation” and solidarity. A vision of brotherhood, solidarity, mutual help is still globally much more diffused than the extreme Western individualism and the survival of the fittest ideology of the end of history. Such vision makes life more worth to be lived and it is much more economically sustainable because it reduces the material needs those that can be satisfied only by exploiting and transforming energy.

One may find clear indications that a new transnational set of normative principles is needed. And to be sure what is really at stake is the establishment of a global legal system capable to control economic processes, rather than being controlled by them. The needs of justice and survival of nature and of the communities inhabiting the planet, expressing themselves by legal forces, should determine public action, and not the needs of capitalistic accumulation expressing itself by market forces.

Principles of justice, responsibility and long-term environmental protection, rather than short term economic contingency and strong interests must set the legal agenda. It could be argued that a new governance and bottom-up inclusive integration of knowledge-based economies (wherever located), which is crucial to the very survival of humankind, cannot happen without defining new terms of widely accepted standard of long term justice in the transnational context – hence the urgency to conceive legitimate transnational legal structures and possibly some apparatus of “superlegality”.

The superlegal apparatus must refer to fundamental principles with which the behavior of political and economic players in the global scene must comply, and supply a series of standards and rules for evaluating the objectives and equanimity of the conduct of national and international actors, public and private. But rules and standards are not enough if not supported by a well articulated and organized (and therefore expensive) system of effective monitoring and enforcement.

## ***12. The Political Demand for Change and Its Current Strength. A Global New Deal.***

Voltaire once said that if we want good laws we must throw every single one that we had before in the trash-can and draft new ones. We are all too aware now, especially as lawyers, of the utopian and ultimately undesirable nature of this vision. Very thick institutional aggregates defeat the domain of the politically feasible and of legal fantasy. But let us still deploy it for once, because in revolutionary conditions such as the ones we might be living in now there is a need to think ahead of time.

The current financial crisis is a factor capable of producing a great change even in mainstream political positions across the world and at the international level. The losers of the social processes of the end of history are already taking the streets in the Western capitals. The desperate pressure on the wall of Fort West which is producing so much death and moral scandal might sooner rather than later be transformed from a humble begging of help into an organized and demographically winning assault. In the West millions of desperate and homeless poor might become a critical mass finally capable of politically organized assertion of their rights against the irresponsibility of the rich. When the pie is one, a huge slice in the hands of the few leaves to the many only leftovers. And the tipping point in which neither rhetoric nor political repression are sufficient to maintain such injustice might arrive very soon.

Avoiding this nightmare of violence should produce the political incentive for the powerful to get out very fast from the end of history and to start facing the political reality that a self serving dream cannot longer hide. This is why it is worth being intellectually courageous in proposing legal change. To be sure the need for a change in the colonial and neo-colonial international institutional order emerged from Bretton Woods and San Francisco has been “in the air” for quite long so far, but there was no effective political demand due to corruptive impact of capital on the electoral systems selecting the elites in the world. The crisis made the political demand for more justice finally effective. G7 countries have a choice. They can try to apply the “straight power” doctrine proposed by Secretary of State Kennan in 1946, according to which the defense of the privileges of the rich cannot afford to be impaired by democracy or rights talk and everything boils down to the brutal exercise of military might. Alternatively they can accept to enter among themselves and with the rest in a Global New Deal, in which the interests of all the inhabitants of the world come first. In fact, with the global success of the weapon production industry and with the diffusion of its products the latter can be the only real alternative.

### ***13. De-Globalization is not the Solution. A Genuine Idea of Legal Globalization is Required.***

At the end of history, with globalization the dominance of Western single thought over the Rest is not only illegitimate, unjust, or immoral - it is not even an economically, socially and environmentally sustainable solution the get out of the well of poverty and injustice. It is actually an all mighty agency of production of poverty and injustice. But processes of change cannot be stopped and de-globalization would not be a solution either.

Historically, the peoples of the world have been integrating into bigger and bigger communities and institutions (such as families, communities, villages, cities, states, and so on), so that our future history will be characterized by a growing important role of institutions at the global level. This is why we do not have to avoid, even less to fear, integration, but we have to work in order to make it happen, being as sustainable and just as possible for everyone.

Given the need for global legal solutions, the crucial question is how and where to find them and how to implement them. Traditionally, legal answers to social problems generate from models elaborated in ‘contexts of production’ and exported to “contexts of reception” (with higher or lower degree of adaptation). Within this historical pattern, powerful and prestigious “producers” of global legal solutions, invariably located in the West, have been progressively closing their legal fantasy focusing only on their own highly professionalized “legal ways”. Clear failures of such models in the contexts of reception have been blamed on lacks on the receiving side, not on the flawed nature of the “exported” legal artifact or on the cultural and political violence of the transplantation process. This is the essence of Western universalism – of the belief of the inherent superiority of the “rule of law” and of its individualized underpinnings.

Nor can one assume well intentioned naiveté in the process of Western legal expansion. Legalistic rhetoric has often been deployed with the conscious intention of pursuing the interests of a few over the many. Also on the receiving side ruling elites (not only in the periphery but also in semiperipheral settings as Europe or Japan) have been blindly convinced (having attended Western academic institutions where critical thinking is marginal) of the equation between technological and cultural/legal superiority thus promoting the reception of dominant legal ways. Moreover, sometimes receptors have been more or less forced to adopt external solutions through mechanisms of conditionality. Other times they have been - in good faith – simply fascinated by Western models of life. Very often the process takes simply the form of corruption of the power elites.

Nobody should read this Report as a denial of the fact that Western law has produced also some “good legal artifacts” such as the welfare state or the concept of relativism and plurality of values. But good legal artifacts (and we will

discuss some in this Report) have been produced in many non-mainstream societies as well; more often than not they may create better long term incentives. Think about the role of workers in the former Yugoslavian corporate governance, or the variety of alternative visions of property in Andeans cultures, or the institutional settings that allow the social capital represented by elderly people be put to value in many African societies, or the legal institutions of solidarity and long term commitment in Islamic finance, or the open access to culture and social knowledge in the traditional Asian resistance to intellectual property rights.

The sustainable elements of all legal experiences no matter if dominant or recessive should be available, known and put in the conditions to contaminate each other. At the end of history single thought and Western hubris was the rule. Now a pluralistic and humble trial and error attitude should become dominant.

In the new international political paradigm that is about to begin, there is the need for elaborating global solutions with a new and different method. It is no more about following one leader and emulating it: it is about cooperating among each other and discussing all together in order to produce regulatory solutions that give the same dignity and respect to all cultures of the world and a fair distribution of the economic surpluses that an ordered economic organization can yield. The direction and the criteria to evaluate regulatory solutions is their capacity to reduce global injustice and disparity and not only to stimulate growth and further unsustainable consumption.

Thus, in the new global legal paradigm we need to confront ourselves abandoning the idea that there is a single right 'way' forward. We must understand that each culture and each civilization is the most capable of finding the best solutions for itself locally; further, from a bottom up perspective each culture should contribute, like in an orchestra, to rethink a sustainable globalization.

#### ***14. The First Necessary Step at the G8: Debt Remission for the Poor.***

Having abundantly reached the bottom of the moral and political well of injustice, the minority of humans that actually have enough to care about the crisis (if you spend your life in the Nairobi dump, or if you are a miner in a remote Chinese mine or a homeless harassed by the NYPD you do not care about the fate of Citybank or GM) now finds itself in front of a politically necessary opportunity to "legally" redesign the world before it is too late. Whether this "opportunity" is going to be a tragic joke or a serious commitment will become apparent very soon when the first necessary and immediate global legal steps have to be taken.

Some of these immediate steps do not require any legal expertise but only political resolve. The very first step that is now long overdue, and that will determine whether a path of long term "Fabian reforms" is at all worth trying, is

the immediate complete and unconditioned remission of poor countries' debt. This remission - and this remission only - will produce sufficient economic pressure to reform the IMF and the World Bank. Once this is done at the next G8 summit, then it will be commendable and farsighted to continue a political worldwide legal discussion capable of giving a voice to everybody that lives on this planet. Such discussion might over time produce a new pluralist consensus for a sustainable legal control of the economy. Such new consensus must be a dramatic break with the Washington's one: we need global structural solutions and not, as so far it has been, globally exported oligarchic and ethnocentric interventions which exhaust their impact in the short run and lead us from crisis to crisis.

There is the immediate need to adjust the strong inequalities between the rich and the poor, which is largely the product of the legally unrestrained behavior of the economically powerful during a past of mistakes that we can no longer afford to replicate, but that we should know very well in order to fully learn from it. At the end of the end of history, we must return to unbiased historical knowledge the role it deserves.

### ***15. A New Forum for Deciding the New Start. Preparing the Global Economic Constitutional Convention.***

Certainly the risks of a cynical deployment of rhetoric of change in the law for the purpose of maintaining a status quo of domination have been very present to everybody involved in the preparation of this Report. Previous episodes of such strategy by the World Bank in the legal domain are exposed in this Report. This is why the issue of a politically accountable global government is so crucial (and we use the idea of *government* and not of *governance* to stress the political stake).

This Report calls for the creation of a U.N. connected truly representative international institution in which all interests are equally represented, a sort of Constitutional Convention for the production of a globally legitimized economic constitution. Within such an institution, genuine discussion and policy-making would guarantee the representation of the interests of everyone. The preparation of such a Constitutional Convention should be entrusted already at the next G8 meeting to an international preparatory commission studying the tremendously complicated issues of global representation.

The rapid legal intervention on financial markets must be coordinated with a wider political and cultural project that must rethink globalization. Moving now in this direction requires tremendous courage and vision by those such as the G8 that have more to lose in the short run in a world of conflicts over increasingly scarce resources where the stake is survival. But the fundamental idea of this Report is that either we are all saved or we are all damned.