

PART I

International University College of Turin

Independent Policy Report

Independent Policy Report

Working Group on Legal Standards

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PART I

GLOBAL POLITICAL ECONOMY AND THE END OF HISTORY

Abstract

Making the current crisis an economic turning point is both an opportunity and a duty to safeguard a future for human civilization. Environmental primacy and global welfare are the values that must guide a global economic constitution to overcome the lock in. Drastic steps to remedy unbalanced wealth distribution are needed even in the self interest of rich countries as admitted by institutions such as OECD, IMF, WB, WTO and ILO. The outstanding debt of all poor countries must be legally analyzed and evaluated according to ordinary private law principles. Cancellation of most of it will be a necessary consequence of analyzing it according to the “general principles” that are already a source of international law. Capitalism displays the capacity to change its form in order to maintain its fundamental substance of exploitive relationship between capital and labor: today, what is at stake is the capacity to manage the next great transformation so that an environment compatible with the survival of human civilization is maintained. To do so, a new institutional framework for long-term global governance is indispensable. The only way to make law sustainable and functional to the long-term solution of the economic crisis is to free it from technological and economic dependency. A new international monetary system is urgently needed. A monetary policy is indispensable in which “money” is understood as quintessentially “public” – i.e. not bound to any automatic market determination. Free circulation of capital outside of any form of public control leads to unsustainable speculation. Binding restrictions on such free flows are necessary, urgent and comparably simple measures to be taken. In a long-term perspective cash injections in the system are like giving more drugs to an addicted patient - they are just bad policy driven by the very same interests that the law must tame.

1.1 Making the crisis an economic turning point is both an opportunity and a duty to safeguard a future for human civilization.

The current intensity of the economic crisis offers, to those lucky enough to be spared the suffering of poverty, an occasion (which is actually a duty) to approach in depth the question of long-term global sustainability - itself a notion to be handled with care. In fact, capitalism displays the capacity to change its form in order to maintain its fundamental substance of exploitive relationship between capital and labor. In a sense, this most important structural characteristic of capitalism keeps it *always* in a crisis. Therefore, what is at stake is the capacity to

manage the next great transformation so that an environment compatible with the survival of human civilization is maintained. To do so, a *new institutional framework* for long-term global governance is indispensable.

1.2 The only way to make law sustainable and functional to the long-term solution of the economic crisis is to free it from technological and economic dependency. This requires consciousness of what is really new in the current phase and what to the contrary is an historical cycle.

Sustainability means that the fundamental function of an organized global political space should be to contrast the progressive reduction of civil society and social experience into the mere *cash nexus*. There is in fact a clear risk that the new institutional framework may end up allowing the final commodification of nature and of civil society. This is why it is so crucial to rescue politics and its most important instrument of mediation, law, from the current subordination to technology. This is why the new institutional framework should have the nature of nothing less than a global economic constitution.

Globalization is not a new phenomenon. The international expansionism of capital and the role of the State in this process were clear to Adam Smith and Karl Marx. Economic historians point at the 16th century and the take of the new world as the starting point of capital accumulation of global magnitude which in fact originated the industrial revolution. The first great globalization process was the attempt to exit the great depression originated by overproduction, which began in 1870. After World War I, as an economic consequence of peace, the failure of the first globalization effort became clear with the global recession of the 1930s.

Europe and the US followed two different political options - in Europe Nazism and Fascism, in the United States Fordism. World War II defeated the first and exported the second to Europe. Fordism was a de-globalizing force. Its production of standardized mass production of durable commodities was aimed at the internal market. The distribution between capital and labor of the cooperative surplus needed to sustain demand - itself necessary for important long-term investments. Government, firms, families, the whole society needed long term horizons to sustain this form of economic organization.

The crisis of overproduction due to the diffusion of Fordism seems to explain the transformation of the 1980s, including the birth of the wave of globalization known as “the end of history” and the financial hegemony over the real economy. Fordism has failed in its attempt to solve the fundamental contradiction of capitalism created by the tendency toward reduction of the profit rate. As the previous experience of late 19th century has already taught us (and is a fortiori true today), economic globalization alone cannot be the answer.

What is new to the current crisis is that possibly capitalism has reached the borders of its geographical expansion so that for the first time human civilization can face the truth that we all live in the same home. A powerful apparatus of political decision-making is necessary to tackle the next wave of capitalist transformation whose face we do not know as yet but that it is most likely to be ugly if it is not tamed. It is in fact probable that - in the absence of possibilities of significant further physical expansion - capitalism will make an attempt toward the final commodification of the entire human experience and spaces.

The fact is that there is no exit from this world and capital cannot be the only decision-maker of the next “great transformation” because the cost of its short-term and short-sighted survival strategy is simply unsustainable for humankind. Its cost like global warming and climate change is not a natural phenomenon but it depends directly on human responsibility. To put the future in the hands of humankind there is the need of a new humanistic approach involving every aspect of civilization that can be deployed to resist the final commodification of the planet and its consequent inevitable destruction. As Max Horkheimer wrote as early as 1926 (and as was believed by Lord Keynes at the time), the truth of the matter is that our society possesses the technical and human means to abolish misery in its most brutal material form. We do not know of any time in history in which this possibility was as serious as today. It is only the proprietary structure that opposes its realization. So that, a fortiori today, it is from the property interests in the current global organization that we need to start.

1.3 A new strong form of political legitimacy is required for the law to tackle the titan of financial liquidity left at large. The global private proprietary system, guardian of a status quo locked in by international geo-political interests is the immense obstacle that politics must overcome.

Today the international financial system is virtually independent from the control of the system of central banks. Global unregulated liquidity – which has had an impressive growth in the last three decades – is by far greater than the sum of the reserves of all central banks taken together. This means that there is no possible political control by the nation states for lack of economic means. Nor is there any possible control from international institutions for lack of political force. The common global problem is how to assert a new public control over the proprietary structure of the global financial system.

The problem is common but not all the peoples of the world have the same role. Nor do they bear in the same way the responsibility and the effects of this “man made” situation. The excess of non-regulated liquidity is felt in a very different and more acute way by the people – for instance - living in sub-Saharan

Africa compared to those living within the borders of Fortress Europe. But if we look for responsibility, the intensity ratio is the opposite. Global solutions have to be sought among a plurality of peoples with very different needs, very different power, very different responsibilities. Nevertheless, if we do not find common solutions we are all going to sink. For the very first time even self interested capitalists must admit that we really are interconnected, like an organism where single parts cannot save themselves while every other part degenerates.

How to face the problem of finding global solutions with so many different counterparts involved?

There is, first of all, a problem of timing. We need quick answers. But quick answers are very difficult to reach, given the complexity of the world scenario. Such a complexity is also due to another factor. We are not dealing with individuals or with groups of people. We are dealing with institutions. Institutions are legal entities. They show the rigidity and the path dependence typical of the legal order. And that makes the timing and the process even more difficult to deal with.

There is a global problem. The global problem has to be faced by trying to find a balance among contrasting interests. The goal we have to reach is a common goal, but in such a process each player acts in its own self-interest. A cooperative solution of the game is then extremely difficult to find. Just take China and the US, respectively the emerging and the declining major players in the global scenario. Do they have conflicting interests? They are both superpowers and they are not ready to give up on each other's requests. China is a great producer and exporter. It owns over 1/3 of the American Public Debt. Such debt - denominated in dollars - is deflating very quickly. China is going through a very intense, fast, difficult and highly unsustainable process of economic growth. If it slows down it will have to face serious problems. Thus is not ready to reduce its carbon emissions and to lose on the value of its foreign assets and reserves. So it is in its self interest to sustain the unsustainable US economy and not to accept new and sound environmental regulations. The interaction between China's overproduction and US overconsumption is the Gordian knot that must be solved with the maximum urgency. How to solve this knot is made difficult by the very different situations in the world scenario and by the lack of a credible space of political mediation between such interests. There are rich countries and poor countries. There are rich people in poor countries and poor people in rich countries. There are poor countries with rich natural resources and rich countries with little natural resources. This makes the global picture extremely complicated. Financial markets are dependent from this framework and speculation thrives within it.

Some countries were for many years closed systems. They were not part of the global game of financial capitalism. Think of China or the former Soviet

Union. The opening of their frontiers to capital provoked a great shock to the global balance, both in the financial and in the international trade systems. Speculation increased its business opportunities.

1.4 Today it is universally accepted that a monetary policy is indispensable, and that “money” is needed which is quintessentially “public” – i.e. which is not bound to any automatic market determination.

Seldom is it considered that the only monetary system wholly consistent with a pure market economy would be a system that fundamentally prevented any monetary policy. In fact, to avoid any intrusion of an extra-market public power in the (private) arena of trade, “money” should be inexorably bound to a commodity whose price is market-determined (Schumpeter, *History of Economic Analysis*).

However, even in those countries most informed by a fundamentalist market ideology (e.g.: US & UK), at least since the 1929 crisis nobody - apart from Hayek in his *Denationalization of Money* - has ever doubted that due to the inevitable imperfection of markets the production of money must be conferred on a “public power” whose discretion makes it possible to suitably administer “liquidity” and “lending of last resort”. Nor has anyone ever doubted that this necessarily public production of money could – and often should – have a major effect on the redistribution of wealth.

Of course, insofar as a monetary policy is confined within the power boundaries of the public producer and administrator of money, its redistributive effect on wealth will be understood as politically legitimate. In fact, being the “absolute proprietor” of its own assets, a sovereign community is entitled to have the “last word” on the allocation of those assets even by contradicting the market’s “first word”, either by means of taxation or through monetary policy proper.

However, when monetary policy wants to go beyond the boundaries of the nation-state to the “external” level of the international community, a radically new situation will arise which presents a dichotomy. On the one hand, international money with the same qualities of national public money is required to permit an international monetary policy able to determine “international liquidity” and “international lending of last resort”. On the other hand, the nonexistence is acknowledged of a sovereign power with international political legitimacy to have the “last word” on the allocation and redistribution of global (non-national) assets.

Bretton Woods (1944) was the first attempt at a “world monetary constitution” to find a solution to the above-mentioned dichotomy. Its main characteristics are well known: on the one hand, (i) the exchange rate of all the currencies of the over 100 Bretton Woods countries is in some way tied to the US dollar, and (ii) in its turn, the US dollar is tied to the value of gold; on the other

hand, to compensate for these unbending ties, (iii) two crucial powers were recognized to a supranational institution (IMF): a) a limited power to give credit in case of a country's non-structural imbalance of payments (i.e. when the country's lack of liquidity is not matched by its insolvency); and b) the power to re-establish the country's exchange rate in case of structural imbalance of payments.

The rationale behind Bretton Woods was: on the one hand, a common rule of law was established which applied to all the currencies in the world, including the hegemonic US dollar; on the other hand, the managing power of the IMF guaranteed a certain flexibility to the system. The external boundaries fixed to the exchange rates (eventually tied to gold) and their public and supranational management should have guaranteed the achievement of both the opposite goals of the stability of the international monetary system and the autonomy of national macroeconomic policies, and the IMF should have become the legal and political center for those goals to be achieved.

However, Bretton Woods presents an international monetary system which is actually separated from the financial system (Gilpin, *The Political Economy of International Relations*), with an international "public" money which is coupled by national "public" finance. In a global regime that did not allow for free capital mobility, each sovereign community enjoyed a certain macroeconomic autonomy – including an internationally controlled autonomy in monetary policy - while world trade could enjoy the benefits of a stable monetary system.

From the first half of the 1970s Bretton Woods was formally and actually demolished. Two key events took place in this respect: (i) the US unilaterally terminated the dollar-gold convertibility (1971-1973); and (ii) capital mobility was progressively freed worldwide, starting from US and UK in the 1980s, and spreading to the whole world by the end of the century. These two events successfully undermined the "global political pact" signed at Bretton Woods under US hegemony but in a bipolar world.

1.5 Excesses of unregulated liquidity originated in the 1970s. They were a consequence of the oil crisis and the abandoning of the gold standard. They were exasperated, in preparation of the end of history by the IT revolution, the WTO system and the opening of new market frontiers in the East.

The long phase of high liquidity on the global markets has its origin in the 1970s, with the birth of the petrodollar and Eurodollar markets as a consequence of the unilateral abandoning of the gold standards which made the Bretton Woods system collapse. It was the first case of the creation of very large amounts of capital moving freely, with no control from the system of national central banks.

The petrodollars were financial instruments which were created in order to buy oil in a period of very high oil prices and double digit inflation.

The “emancipation” of the dollar from any external ties gave the US what De Gaulle happened to define as an “exorbitant privilege”, created by the combination of the initial Bretton Woods power to produce the money used in the international trade with the after-Bretton Woods freedom from international limits to that power. Today, unlike any other country, the US enjoy not only a complete freedom as to economic and monetary policy which has allowed them to flood the world market with inconvertible dollars, but also a complete freedom from controlling their balance of payments and ultimately their public debt. In terms of real economy, today the US can purchase goods and services from the rest of the world by giving in exchange a mere “promissory note” that will be honorable with other promissory notes *ad infinitum*. Basically, since their unilateral violation of the Bretton Woods agreement, the US cannot be insolvent, and do not have to care about the amount of their public debt. This new regime of *fiat money* is internationally tantamount to a transformation of the *rule of law* into the *ruler’s law* (from *imperium iuris* to *ius imperii*).

Thus, when the oil crisis was over, the liquidity created did not disappear. Rather, it remained in the system of the richer national financial markets and it was mostly invested in their economies. Around such a massive amount of liquidity flowing around the international financial system a wide movement of currency speculation also began. To protect the stability of the monetary system at the beginning of the 1980s, the European Community began to work on the building up of the European Monetary System (EMS). The Maastricht Treaty represented the birth of what ten years later became the Euro system – a common monetary area with a common currency.

While monetary deregulation freed the US dollar from any external discipline - more clearly showing a function that has less to do with “markets” than with “power” - the deregulation of capital mobility and the consequent creation of global financial markets closed the circle. Huge amounts of freely mobile capital are now able to alter considerably the power relations between dominant and dominated economies, exposing even healthy dominated economies to monetary pressure and speculative attacks that can greatly modify the price of their primary goods and supplied labor.

Therefore, monetary deregulation and free capital mobility are two sides of a coin that during the 1970s and 80s transformed a global regime of (though weak) world rule of law into a global regime of monetary and financial imperialism masked by the ideology of a market economy which has been denied and contradicted by the actual behavior of hegemonic countries.

In other parts of the world global liquidity became the engine for sudden and fast economic growth. From the late 1970s China started to change its

economic system, open up to trade and foreign investments, and grow very rapidly. In 1989 the Berlin Wall fell and another huge economic area was rapidly transformed into a market economy increasing the size and imposing new equilibriums to the global market. In 1995 the WTO trading system was established and the international trade increased very strongly.

So the entire world economy experienced major changes and fast growth due to the huge amount of money which was artificially created in the financial systems. In the 1990s a massive process of privatization all over the world increased the size of Stock Markets, thus producing further “materials” for financial growth. Households’ savings were attracted towards the capital markets and away from government bonds. The fiscal discipline of the European Treaties and the competition policy implicit in the Euro system greatly increased the size and power of the private sector. The European model of mixed economy and welfare state – which had worked very successfully for over thirty years – started to be gradually put under attack thus weakening the only alternative model to the Anglo-American financial system left after the collapse of realized socialism.

In the meanwhile, new information technology (Internet) allowed for the globalization of the financial markets. The equity shift transferred into the hands a few ever larger financial institutions huge amounts of money. Financial arbitrage, also due to very low short-term interest rates in some region of the world (notably Japan), increased the creativity and speculation of financial institutions throughout the global system. Derivatives ceased to be useful systems of risk insurance and spread. Paradoxically, together with innovative financial products, they became the chips of a gigantic international casino.

Two were the principal distinctive features of this process. First, the global financial system was greatly independent from the control and regulation of national central banks. Second, the system was producing liquidity endogenously, like a snow ball. Since the liquidity given to creditors was smaller than the liquidity in the hands of the lenders (due to derivatives and arbitrage between short-term and medium and long-term durations) this unsustainable structure was made possible.

Such system was for over 15 years apparently beneficial to the economy. The people from the richest part of the world were able to buy goods and services (thank to the low cost of debt) from producers which could export goods and services at low cost (due to the exploitation of labor). This mechanism characterized the relationship between China and the US. But almost everywhere the richest citizens of the world could take advantage of the poorest. This pattern of post-colonial exploitation was somehow hidden by mainstream economists because countries like China, India and many others, could grow fast since they were importers of Western technologies. Even Western high-quality products in export-oriented economies such as Germany could take advantage of this feast,

satisfying the doped consumption habits of increasing numbers of the very rich elites from regions fully included in the global economy who were capturing the sudden growth (Russia, Gulf Countries, Far East, Latin America). In fifteen years the world GDP doubled, producing an increase of the wealthy worldwide – from 600 million to 1,300 million - and a dramatic increase of the poorest.

1.6 In a long-term perspective cash injections in the system are like giving more drugs to an addicted patient. Cash injections are just bad policy driven by the very same interests that the law must tame.

Current crisis figures are quite dramatic: global financial markets have collapsed pulling into the panic the entire global real economy, and several billion dollars have been spent by some Western Governments and some international institutions in the attempt to save what is still possible to save. The US alone have approved several plans to bailout banks and buy toxic assets for a total amount of around five to seven trillion dollars: a huge amount of money, which, according to the followers of “business as usual”, could re-establish confidence and let things restart smoothly.

Yet, once we compare them with the figures of the global financial markets, we will realize that these efforts, even assuming their good faith, are no more than grains of sand compared to the global financial markets and the global financial actors that the last twenty years of globalization have created.

Globalization of financial markets is a trend that is often discussed but rarely quantified. Although it is quite hard to have updated and global data concerning the size of the financial markets, it is enough to give a look to 2006 figures to realize why the current meltdown is spreading its effects all around the world and so deeply: less than three years ago the total value of the world's financial assets intermediated through banks and securities markets reached \$167 trillion, with a daily trade of \$1.5 trillion, fifty times more than the export of goods and services, which annually totaled \$6.1 trillion. And the relation will be the same if we compare the size of the global financial market with the global GDP: in 2006, more than seventy countries had financial assets that exceeded the value of their GDP, while the value of the assets traded in the markets and by official intermediaries was around 3.5 times higher than the global GDP.

If we consider that all these already astonishing figures do not take into consideration private markets, which include all the trades in assets that do not take place in regulated markets or do not pass through official intermediaries, and which were the first pillar of the system to collapse, we can easily understand why the financial meltdown immediately affected the real economy. Even if it is not easy to calculate the amount of this parallel and unregulated market, a recent Report (McKinsey 2006) estimated that it could amount to \$477 trillion. Financial

markets are a powerful giant with no rivals, especially if they can freely flow without impediments.

The growth of cross-border capital inflows and outflows is what better represented the new chaotic world, and took us to the situation we are living in. Without considering the flows of capital toward offshore centers, and without looking at the movements in the parallel private market, which are impossible to estimate, the 2006 annual value of such cross-border capital flows totaled \$8.2 trillion – three times more than the level in 2002 and 2/3 than the annual global GDP - while the world's outstanding stock of such investments reached \$74.5 trillion - a huge amount of money that freely moved from one country to another thanks to the removal of capital controls.

1.7 The uncontrolled growth of their public debt allows the US to redistribute the world's real resources and assets in favor of the US economy, through a policy whose logic is purely national.

For a hegemonic country the inconvertibility of money is tantamount to being freed from the budgetary limits of an ordinary debtor. Inconvertibility of money and unlimited freedom to get into debt are two sides of a coin that is in radical contradiction with the “market”: (i) inconvertibility of the US dollar, (ii) growth of the US public debt, and (iii) redistribution of the world's assets in favor of the hegemonic nation by means of public expenditures are the three modes of the structural and constant obstruction to that “efficient allocation of resources” that the “market” should be promoting on a global scale. It is thanks to the US self-granted “monetary immunity” from any supranational *ius gentium* that emerging economies are forced to accept promissory notes (inconvertible dollars) in exchange for real goods and services, and that the US can force the rest of the world to subscribe their public debt securities. In fact, since the US dollar is the worldwide accepted money in the international trade, emerging countries are forced to maintain monetary reserves in US dollars to protect themselves from world trade risks. Given that these reserves in inconvertible dollars do not yield any interest, emerging countries are then forced to buy US treasury bonds. This way, the US finds itself in the enviable position of a debtor that can dictate rules to its creditors. Thus, the US is at the same time the debtor and the arbitrator of the debt's value, in spite of any feasible credit-debt state of affairs which is assured by the existence of a third impartial guarantor.

Freedom from external control has allowed the US to “live beyond its means”, i.e. to adopt a model of “growth without savings”. Only, this protracted US imbalance of payments was eventually painfully paid by the rest of the world through the inevitable global financial crisis. Life beyond the hegemonic nation's means was made possible by breaking the Bretton Woods monetary agreement, which in its turn produced a distortion in the way world prices of goods and

services are fixed (in US dollars). This distortion, while challenging the overall rationality not only of world trade prices but also of the value (in US dollars) of financial activities, successfully supported the excessive life style and expenses of the hegemonic nation. Consequently, there appears to be a close link between the monetary imperialism established by the US in the 1970s which ultimately resulted into free capital mobility and the current monetary and financial “bubble”.

1.8 Free circulation of capital outside of any form of public control leads to unsustainable speculation. Binding restrictions on such free flows are necessary, urgent and comparably simple measures to be taken.

What the 1997 crisis taught, and no one learned, is that an explosive growth of cross-country flows increases volatility, which automatically raises the risks of long-term investing, creating the perfect incentive for investors to undertake short-term projects, then in turn contributes less to productivity growth than long-term investments, and is not able to stabilize unstable economies. Thanks to new technologies, the cost of cross-border trading has fallen to a fraction of what it was only some years ago, while the liberalization of markets has done the rest of the job: money can be poured into a country suddenly and rush out just as fast, and whoever does not have the chance to ride this fast car can only sit and stare at the ruins left behind.

In a 1997 conference, the South African President Nelson Mandela said that “the same mobility of the capital and the globalization of capital and other markets make it impossible for a country to pick up a national economic policy without taking into consideration the possible reply of the markets”. Globalization of capital has created a strict relationship between all the countries of the world, making it easier for wealthy investors to look for high yield in “emerging markets”, and making the latter more and more dependent from the former, because no long-term investment is ever pursued. In such a scenario, and given the size of the financial market, how could a country (with the exception of the US) decide to fight against it? How could it spend reserve money and increase the public deficit? How could it challenge a system that wants a free market that regulates itself? A few seconds after, foreign investments would be withdrawn, and the country would find itself dried up and abandoned, incapable of dealing with its future, mainly because nothing has ever been planned to last until the future. This is not only contrary to the idea of the autonomy of countries, but to the principles themselves of sovereignty and democracy: financial markets are not only a question of money, they are a question of power, and nowadays they have too much power.

1.9 Environmental primacy and global welfare are the values that must guide a global economic constitution to overcome the lock in.

If we tried to understand the changes in the prices of bread, wheat, or rice, just by looking at the producers or at the distribution chain we would be mistaken. We are back to the original problem. The world is one and its size is limited. The growth of population and the rapid changes of its needs due to expanding consumption produce great imbalances made worse by financial speculation on the price chain.

Of course, the poorest people are the ones to suffer the most. But the rich countries are those that have the power. How are we going to find a balanced solution?

Every actor should be pushed to think in the long term. Resources are scarce and the world population is growing too fast. Environmental balance is an essential element of the survival of humankind. Will this be a sufficient incentive for the rich and powerful to begin the ambitious path towards a global economic constitution - a process that necessarily limits imperial ambition and sovereignty? And what should the fundamental ideas be around which to invite countries and people to sign in this process?

In the second half of the 19th century welfare state regimes were dominant in Western Europe and in many Communist countries. Then, at the end of history a global authoritarian model called corporate financial capitalism took over in a political and cultural revolution. In less than twenty years such transformation commodified human experience to a large extent and exported organized exploitation worldwide with the help of a thriving western-centric intellectual industry grounded in the short-term arrogance of mainstream economic theory. We should reverse this trend and propose this reversal as the platform for a global economic constitution. The protection of the environment and *a public-minded universal welfare system* might thus become two leading values of the new humanism around which a global constitution should be drafted and signed by all nations of the world.

1.10 Discrete recognizable political choices have freed the wild beast of finance. Regaining political control over global financial and economic speculation is the ultimate aim of any attempt to use the law. A new international monetary system is urgently needed.

Over thirty years of accelerated exploitive economic growth followed the crisis of the Fordist model of production in the late 1970s. The new highly unsustainable pattern of accelerated exploitation was the consequence of the aggressive global expansion of unregulated financial capitalism. Many new regions of the world

experienced such growth, with the consequent rise of the already discussed global unsustainability. At the same time, such growth excluded in terms of number of individuals a great majority of the world population. A growing number of people were left behind in rich countries because of the dismantling of welfare institutions.

A world market where prices of goods and financial activities can be freely manipulated either by the hegemonic country or by the hegemony of speculation will always be exposed to global crisis. Reforming the international monetary system entails an agreement involving all the main stakeholders (US, China, EU, Japan and other economies). This agreement must be on the overall allocation of global resources and assets (technology, land, labor), and must re-establish external boundaries to the production of “world money”. These supranational legal boundaries must offer a solution to the dichotomy between international monetary stability and necessity of flexibility in national and regional economic policies. While this time we cannot resort to rigid or automatic limits like those that gold used to provide, the current monetary anarchy must be fought, which only masks a law of the jungle where the strongest prevail and the international community languishes.

Possible measures are: (i) A re-evaluation of the IMF as the core of a world central bank (as recently desired by both high representatives of China Central Bank and distinguished US economists). (ii) The institution of a mandatory supranational standard formed by regional currencies, including the US and EU currencies and a future (and futuristic) Asian currency. (iii) A new separation between a world currency that works only as a universal monetary unit of account (to be used by law in all international contracts and all transnational corporations’ budgets) and a few regional currencies that work as actual “exchange intermediaries”. (iv) The simultaneous institution of a supranational authority (representative not only of the world wealth but also of the world population) with the power to determine on a current basis the exchange rates between the universal monetary unit of account and the actual national currencies. (v) An international agreement on the public debt of each country that while fixing rigorous limits allows for some flexibility in national economic policies.

While many are the possible tools for a monetary reform, they only have one goal: the establishment of a rule (*ius*) with which the whole global community must comply (including the strongest countries), which defines a link between the level of life style and the living means available to everyone.

In consequence, it is necessary to imagine the ways to pass from the ruler’s law (*ius imperii*) that produced the current global crisis to a rule of law (*imperium iuris*) capable to re-establish a fruitful international co-operation.

Of course, we do not think that the world communities will comply with the monetary *ius cosmopolitanum* out of human righteousness and spontaneous

preference for the “just” against the “strong”. Nonetheless, we do believe that if the “strong” do not become more “just”, they will eventually lose their strength.

1.11 Drastic steps to remedy unbalanced wealth distribution are needed even in the self interest of rich countries as admitted by institutions such as OECD, IMF, WB, WTO and ILO.

Wealth distribution is an indispensable starting point to rethink the concept of human development in the 21st century, as global imbalances are widely considered to be major factors behind the current economic crisis. There can be no dispute about the extraordinarily high levels of global inequality, which imposes a deep and serious analysis on the link between globalization of capital and its impact on the workforce. The global pattern of subordination of labor to capital is unsustainable and seriously impacts both developing and developed countries. In poor countries, the high unemployment rate puts the whole local workforce at the mercy of global capital. In rich countries, Western Europe for instance, wage moderation follows - despite the rise both in inflation and productivity - reducing purchasing power and creating increasingly insecure employment conditions.

This situation has been deemed problematic by all international agencies including those that are responsible for the policies that have mostly produced it. Considering the trend of the past decades, the OECD underlines that the gap between rich and poor and the number of people below the poverty line have both grown, and the increase is widespread, affecting 3/4 of OECD countries. As regards the proposed solutions, both the WB and the IMF consider redistributive policies as a way to improve the income distribution in member countries. On the same line, the WTO underlines that the strength of the poverty-reducing effect of trade appears to be country-specific and will to a large extent depend on the policies accompanying trade reform. In its turn, the IMF stresses the fundamental role of income distribution in the achievement of social fabric and sustainable growth, as growth in the context of high income inequality is not likely to have a large impact on poverty reduction. Thus, the IMF promotes public subsidization of basic social services such as education and health, and specific targeted subsidy and transfer policies to increase consumption of the poorest groups and public works schemes to supplement incomes, with particular attention to the rural areas; moreover, during periods of macroeconomic instability social safety net programs may provide assistance to the non-poor that have fallen into poverty.

The WB asks for both theoretical rethinking (“global thinking”) and practical action; the core objective is the achievement of “global progressivity” through the regulation of global transfers, the institution of a supranational taxation authority (with grants focused on Africa), limited country sovereignty with regard to the use of funds, transfers no longer from state to state but from global authority to citizens.

Regarding the increasing and irrational abyss between median workers salary and CEOs, the ILO underlines that such income inequality is both socially harmful and economically problematic, since it brings about escalating social conflict and makes low-income families likely to become increasingly indebted in order to fund their housing investment and consumption decisions.

To summarize the evaluations developed so far, the essential point that emerges is the ill-conceived nature of an answer limited to injecting money into the economy: an effective increase of equality in the distribution of wealth has to pass through a structural reconsideration of economic core principles, to make them compatible with social justice, equity, stability and sustainable long term. The only way to achieve such goals is to rebuild the hierarchy of fundamental values and institutions that are the basis of civil society: the primacy of politics and law over economics; that of real economy on finance; the primacy of real needs on consumption and accumulation.

1.12 Thirty years of massive financial deregulation have produced results that must be redressed immediately. Wealth redistribution from the rich to the poor through the political process and the legal system cannot wait much longer. Structural limits must be set to avoid unsustainable injustice.

Special attention must be dedicated to the ratio between median workers salary and CEOs in major industrialized countries. In the US in the period between 1980 and 2003, CEO compensation had a six-fold increase (attributed to the six-fold increase in market capitalization of large companies during that period, as well as to the explosion of stock-option compensation). Between 2003 and 2007, US executive managers' pay grew in real terms by a total of 45%, compared with a real pay increase of 15% in the case of the average executive, and less than 3% for the average American worker. Hence, by 2007, the average executive manager in the 15 largest US firms earned more than 500 times the average employee ("only" 300 times in 2003). Similar patterns can be observed in other countries such as Australia, Germany, Hong Kong, the Netherlands and South Africa.

All the studies conducted on the issue underline the discrepancy between how companies perform and what remuneration and bonuses CEOs get (a clear example of it is the case of AIG's bonuses). On this point, we may conclude that a stable and significant relation between pay and performance has yet to be established; where such exists, it may be expected to be country-specific, depending largely on a country's economic, institutional and cultural peculiarities. Even if such a relation were established the salary gap would still be abundantly questionable both on moral grounds and on overall sustainability.

1.13 Powerful pseudo-scientific and self-serving rhetoric has accompanied and facilitated this state of affairs. Wrongdoing individuals and institutions are part of the problem and cannot be expected to help in the solution.

The dominant rhetoric of global competition has produced vague concepts such as market flexibility and competitive performance to justify social uncertainty, lower households saving rates, and greater economic disparities. From the late 1970s capital has been thus justified by the economic mainstream in its relentless increase in its share of the cake of production and economic wealth at the expense of labor.

In the last three decades with the acceleration of globalization social and economic disparities have greatly increased, which is true of those related to the Indicator of Human Development proposed by Amartya Sen and recently introduced by the WB. Thinking of labor as a commodity rather than the core of human dignity and a crucial element of a well-balanced and peaceful community is perhaps the single most dramatic ideological mistake that must now be relentlessly challenged. It is the law that should not allow labor to be considered just as any other commodity in the productive process.

1.14 The outstanding debt of all poor countries must be legally analyzed and evaluated according to ordinary private law principles. Cancellation of most of it will be a necessary consequence of analyzing it according to the “general principles” that are already a source of international law.

Among the enumerated sources of International law (Art. 34 of the Treaty establishing the International Court of Justice) we find the common principles of law recognized by “civilized nations”. Such principles support the argument that the outstanding debt of poor countries is in most part not due since it was contracted in historically unconscionable conditions produced by past colonization and by sudden withdrawal of capital after decolonization. Hence, cancellation of most of the poor countries foreign debt would follow from plain application of legal principles which are already part of international law.

Some debts and loans were knowingly given by lenders to dictators or oppressive regimes (the so-called odious debts). In certain cases, lenders knew that money was going to be stolen through corruption. Certain payments refer to loans contracted to finance projects that failed because of bad advice or incompetence by the lenders, or had a dramatic impact over societies, environment and employment. Some debts were contracted with unfair terms, such as very high interest rates. Very often debt is contracted to repay other debt (the debt trap).

The Paris Club and all the other States that are in credit with developing countries must renounce their credit. At the same time, it is necessary to analyze all other credit by public and institutional actors, so as to stop non-legitimate credit like that granted to Sudan to buy weapons. The same applies to debts contracted with the lender knowing that there was a high probability of default, as in the case of those contracted with an interest of 150% by the Russian Government in the 1990s.

Most of the poor countries have debts with multilateral institutions - in particular, the WB, the IMF, and other regional development banks like the African Development Bank and the Inter-American Development Bank. However, the total share of credit owned by these institutions represents only 27% of the entire debt of developing countries, while commercial or private debts account for 52%, and bilateral debts (government debt held by another government, especially export-credit debt) for 21% of the total. Hence, a global debt policy should not only focus on the debt owed to multilateral institutions, but also on the debt contracted in bilateral agreements or owed to private creditors. Particularly, the practice of vulture funds must be forbidden: these are private funds that acquire credits from countries and act against debtor countries in order to obtain the money and the due interests. To date, the international program for debt relief has brought to the cancellation of \$88 billion through the HIPC (Heavily Indebted Poor Countries) and the MDRI (Multilateral Debt Relief Initiative). Both these plans that are run by creditors are not open to all the countries that face external debt, do not take in consideration the fundamental reasons supporting debt cancellation, do not take into consideration the injustice of the burden of the debt and the problem with odious debts, and have harmful conditions attached, such as inequitable reduction of public expenditure or privatization of national industries. This scenario is arbitrary and illegal. The solution to the debt problem is an integral part of any global attempt to put finance under some legal control.

1.15 Canceling the debt of poor countries costs a fraction of the current cash injection in the financial systems operated by rich countries.

In the Gleneagles meeting of June 2005, G8 countries agreed upon canceling the debt of the 18 poorest countries in the world, 14 of which are African. To date, this pledge has not yet become reality. Currently, a wider cancellation is urgently needed to release funds in developing countries, which can be used to approach the crisis providing some social protection to the most vulnerable as is being done in the North.

In 2006, the debt contracted by developing countries was calculated at around \$1.5 trillion, around 20% of what the US have already planned to spend to re-launch their internal economy. If we considered the amount of money poured

in the Western countries by governments and the global debt of developing countries, we would find new evidence that throughout economic history those who succeeded economically kicked away the ladder beneath to prevent the others from scrambling up behind. This attitude should be exposed and rejected. In the 52 poor “Jubilee 2000” countries, a total of 1 billion people bear a debt burden of £286 billion, which is less than the total net worth of the world's 21 richest individuals.

1.16 Debt is more than an economic fact. It has a direct effect over public expenditures and people's quality of life.

Extrapolating from UNICEF data, as many as 5 million children and vulnerable adults may have lost their lives in sub-Saharan Africa as a result of the debt crisis since the late 1980s. The UN fears another 3 million children will die in the poorest countries of sub-Saharan Africa by 2015 - the target for Millennium Development Goals to cut poverty by half.

In this crisis, the developing world did not cause the problem. Bankers in developing countries were not lending irresponsibly to mortgage holders who were unlikely to meet their repayment obligations. The same reckless lending that created the developing world debt crisis in the 1980s is also behind the current financial crisis. The difference between the present and the past is that the entire world is facing a debt crisis, but there is a striking contrast in policy responses. While developing countries were left to suffer for decades, and are still left in the same situation notwithstanding the global character of the current drama, trillions of dollars have been pumped into the markets and to bail out banks in recent months. With traditional sources of finance drying up, export markets collapsing and a range of other economic impacts, the threat of a renewed debt crisis is very real (Jubilee 2000, A new debt crisis, March 2009).

The economic and financial effects will make it harder for some countries – especially those most dependent on exporting to developed economies in deep recession – to service their debts. They will simply have less money in the bank to pay out. Developing countries have contracted \$660 billion short-term loans with a repayment date of one year or less: if any of these countries find themselves unable to repay these debts, they will have to look for refinancing or restructuring, options which not only are extremely difficult in a situation of global credit crisis, but which could force developing countries to accept “conditionalities” and high interest rates attached to these loans.

It is essential that apart from the debt relief, developed countries continue making progress towards giving 0.7% of national income as aid. New debt cancellation must be counted separately from donors' aid commitments. This has been ratified in the Monterrey Consensus as principle of “additionality”. Countries should keep giving money, but in form of grants and not loans, and

without inequitable conditionalities attached.

1.17 Not only legal and moral obligations but also self-interested long term political and economic reasons point at immediate debt cancellation as a pre-requisite to a sustainable international policy.

Because of the predatory nature of current debt situation, econometric studies show that a reduced reliance on external capital (including both equity and debt flows) is linked to higher economic growth, which collides with the standard view in most development and academic circles that access to external resources is a necessary condition for igniting growth in poor countries. This is, for example, the ideological starting point of the Paris Club, which claims that as debt results directly in future obligations for the borrower, this makes it necessary for the borrower to make sure it will, in the future, be in a position to repay its debt, notably through an efficient use of the loans, in order to generate income that will be used to repay the debt. This is why debt is often considered as a development tool.

On December 31, 2007, the total debt of developing and emerging countries was estimated by the World Bank to be \$ 3,357 billion, 52% of which are public and public guaranteed, while 48% is private debt not guaranteed by States. Of these, \$660 billion are constituted by short-term debts already matured.

The role that multilateral institutions can directly play toward debt relief is small compared to what they could indirectly do by acting on the debt that poor countries “owe” to private creditors. Every year low income countries, the poorest of the planet, spend \$34 billion in debt service. This is mainly the consequence of the debt trap, due to which very often governments have to borrow money (usually through short-term loans), in order to pay back previous and bigger loans. It has been calculated that developing countries spend \$1.3 in debt services for every \$1 they receive in grants. It is enough to think about Nigeria, whose original debt was around \$5 billion, has paid about \$16 billion, and still owes \$28 billion. This can be seen in the case of Argentina, that before defaulting had an international debt that reached around \$128 billion (2001), and normal interest plus premium amounted to \$27 billion a year: the IMF offered a \$20 billion bailout loan, which not only would have not solved the problem, but it would have increased the debt of the country.

The development of social capital is the most important form of long-term strategy to reach sustainability. The World Bank has calculated that with \$ 10-15 billion per year during 15 years, it could be possible to grant the first cycle of education to all the children of the world. Compare this with the numbers offered before. One study of 10 African countries found a 40% increase in education spending and a 70% increase in health spending after just four years of debt relief. A study by the IMF economists in 2006 confirmed again that cutting poor

countries' debt payments has a "significant" impact in terms of increasing social spending.

The increase of social spending is the only plausible solution to keep poor people from increasing their desperate attempts to reach the shores of the wealthy countries. Such desperate attempts are currently conducted with the humble attitude of searching some rescue and human understanding. Soon enough in even more desperate economic conditions might become a well justified hostile assault to the rich.