GLOBALIZATION'S PERILOUS IMBALANCE: CONSTRAINTS FOR CANADA'S GOVERNMENTS, OPPORTUNITIES FOR CANADIAN CITIZENS

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It has been fifteen years since the birth of the World Trade Organization (WTO), which marked the apogee of United States-driven, neoconservative economic globalization; nine years since Osama bin Laden's attacks on New York and Washington, which laid a terrorism-obsessed, border-raising paradigm on top of the previous market-liberalizing, border-lowering paradigm; and two years since the collapse of the American financial system, which heralded China's entry onto the world's stage as its next political and economic giant.

It may therefore appear disconnected from present reality to focus the Viscount Bennett Lecture on such a clichéd subject as globalization's constitutional challenges. But for a Faculty of Law that considers Canada's position in the world through the lens of legal theory, globalization still presents a legion of conceptual and normative puzzles that cry out for a comprehensive, interdisciplinary analysis that is capable of guiding the policies of Canada's governments and channelling the energies of Canadian citizens toward the effective but urgent action needed to correct the perilous imbalances that threaten the sustainability of human society on our planet.I will defend this broad claim first by explaining my approach to the phenomena known as globalization; second, laying out the framework that defines the still dominant, exclusively domestic conceptualization of constitutionalism in the legal academy; and third, elaborating on the evidence that the world's constitution has produced dangerous asymmetries that are being operationalized by states and market players. Finally, I will make a properly Canadian—that is, muted—call for both governments and citizens to work toward a new paradigm so that our governments and citizens can contribute constructively and deliberately to saving our still-resourceful planet.

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I. GLOBALIZATION: THE CONCEPTUAL CHALLENGE

- Since the fall of the Berlin Wall and the ensuing end of the Cold War, we have required a new label—globalization—to make sense of everything happening beyond national control. Most of the many aspects of what we have called globalization are obvious as soon as they are stated: political globalization, the rise of transnational political regimes in which corporations, civil society organizations and governments establish new norms for global trade, environment and human rights.

- Economic globalization: lightning-fast flows of currencies, a spectacular increase in transnational investment and a dramatic expansion of world trade in goods and services.

- Societal globalization: massive movements of peoples, transnational networks of activists and a transformative proliferation of personal interaction in cyberspace.

- Technological globalization: the instantaneous worldwide communications networks now provided by information technology, employed particularly in the industrialized world.

- Medical globalization: societies' increasing vulnerability to epidemics such as HIV/AIDS, SARS or influenza, the devastation of which respects no borders.

- Cultural globalization: the increasing global domination of American (and to a lesser extent European) entertainment industries and cultural products.

- Ecological globalization: the emergence and rapid intensification of environmental trends, from ozone depletion to climate change to biodiversity loss.

- Criminal globalization: spreading networks of sex trade, narcotics trafficking and terrorism, as well as the rise of white-collar corporate crime employing sophisticated tools and having transnational effects.

- Military globalization: the rise of "humanitarian intervention;" the War on Terror; the Iraq invasion and resulting civil strife; a

burgeoning global arms trade and the presence of Canadian troops in Afghanistan, Haiti and other states torn apart by conflict, crime or corruption.

- The globalization of consciousness: a growing collective consciousness of humanity, the planet earth and its ecosystems as a single community with a shared fate.

- Ideological globalization: militant Islam, Christian fundamentalism and other radical doctrines that proselytize across all borders.

Irreducibly heterogeneous, inherently dynamic, and fundamentally contested in all its meanings, globalization's analysis must be sensitive to the conflicts generated by efforts to facilitate, reverse or even merely to understand its various manifestations. The purpose of this text is to propose a legal-economic-political framework with which to make sense of the phenomenon's chief characteristics in order to point the way forward to resolving its most dangerous contradictions.

During those first, optimistic years—after the collapse of the Soviet bloc but before ethnic cleansing and global terrorism painted "globalization" with a darker face—the label was a corollary for American triumphalism, which was celebrated ideationally as the victory of liberal capitalism and even the "end of history." In the grimmer, post post-Cold War first years of the 21st century, when the United States lost its moral leadership, military invincibility and economic hegemony, it has been easy to focus on the bleaker and more immediate realities of terrorism and dismiss neoconservative globalization as a historical phase now transcended. We should not be in such a hurry to wipe out the recent past.

At its launch in 1995, the WTO was eulogized as an almost utopian, world-federalist forerunner of global governance. After all, it gave concrete expression to mankind's yearning for universal *rights* and the global rule of *law*. It was based on the *principle* of freedom. It approximated Karl Marx's dream about replacing the management of men with the *administration of things*, a minimal state machinery having been set up to steer the market's free hand as it lifted human welfare to ever dizzier heights.

The catch lay not in the WTO's logic but in its asymmetry. The rights it proclaimed were only for transnational corporations (TNCs), not for citizens. The laws were certainly universal, but they promoted a deregulated marketplace, not coordinated global governance. The principle of freedom operationalized by its rules was to extend the global sway of already powerful TNCs, not to empower the wretched of the earth. The administration of things was an efficacious dispute-settlement process

designed to resolve international conflicts between corporations and governments, not to ensure environmental survival or human justice.

This most powerful, most novel, and, for many, most disturbing manifestation of globalization, which had been immediately celebrated and later vilified, is now half forgotten. I believe that the WTO needs to be rescued from its semi-obscurity and given its theoretical due, not just because its powers are substantial but because, internationally, they diminish the capacities of all other multilateral legal instruments and, domestically, they constrain the regulatory state, thereby exacerbating the perilous imbalance both within and between states that should become our era's normative concern.

II. LEGAL FRAMEWORK: THE WORLD'S SUPRA-CONSTITUTION AND CANADA'S EXTERNAL CONSTITUTION

For centuries, the legal concept of constitution has been applied to those written documents or unwritten conventions that articulated the principles, defined the institutions and laid down the rules by which nation states manage their political life. During the first five decades after World War II, the proliferating international institutions, multilateral agreements and networks of global governance retained international law's traditional respect for national sovereignty. While states may have been constrained by the obligations they undertook when signing treaties, they largely retained the ability to interpret these obligations to suit their own interests, ignore them if they chose and abrogate them if they felt this necessary.

1. Global Supra-constitution

It is hard to deny that the multiplication of international organizations and the production of international legal norms over the past sixty-five years have *reconstituted* the global order. Whether these myriad instances of transnational governance and conventions comprised a *global constitution* was another matter, because they were mainly premised on the principle of national sovereignty and generally allowed wide latitude for states to decide about their individual degrees of participation and compliance.

Fifteen years ago, one could conceivably have performed a mammoth exercise to list all the *principles* enshrined in international documents; detail all the *rules* these contained; lay out all the *rights* that had been declared and analyse the legislative, executive, administrative, judicial and coercive powers of the world's legion transnational *institutions*. Not only would such an exercise have shown how variegated the global governance landscape was, it would have suggested that—with the important exception of the weak and impoverished states in the global periphery—signatory states were bound by their international obligations to the extent that these matched their self-interest, but no further. States could sign and ratify all sorts of

documents, addressing human rights, labour standards, or cultural diversity, without feeling the least obligation to respect their resultant commitments. The Government of former Prime Minister Jean Chrétien signed the Kyoto Accord, the Government of Paul Martin proceeded to ignore it, and the Government of Prime Minister Stephen Harper loudly declared it would not respect it.

The argument that this changed in 1995 is largely but not entirely based on the WTO's novel muscularity. To be sure, the Uruguay Round's eight years of negotiations produced some 27,000 pages of *norms* (national treatment, most-favoured nation), *rules* (on tariffs, services, and state subsidies) and *rights* (intellectual property). When these provisions entered into force in 1995, we introduced such an authoritative form of global governance that scholars considered it a try step already in global governance. What caused this new incarnation of the General Agreement on Tariffs and Trade (GATT) to be branded as a "supra-constitution" was its judicial capacity to issue rulings that arbitrated disputes between member-states and its coercive capacity to enforce these judgements. It seemed that, overnight, the world community had given itself an international organization with constitutional clout in the sense that its principles, rules and rights were legitimately established, enjoyed primacy over those of its signatories, would be difficult to amend and had effective muscle.

The case that a global supra-constitution is evolving is not limited to the WTO's evolution out of the GATT. Other trends leading in the same direction that were nascent during the Cold War have strengthened. State citizens and even non-signatory states are finding themselves bound by international instruments that would previously have been dismissed as irrelevant soft law. Some of those accused of war crimes have been brought to justice in The Hague. Organizations set up as creatures of nation states (for example, the Codex Alimentarius) or the market (for example, the International Organization of Standards) make rulings or regulations by which their masters find themselves in practice to be bound. In these largely imperceptible ways, I argue that a supra-constitution is steadily, if haltingly developing.

2. Domestic External Constitution

The parallel argument at the domestic level is that signatory states now have to confront a new legal reality. The fact that they are living under a *supra-constitution* has been evident to scholars of the European Union (EU) for some time. *Ipso facto*, at the national level, the EU's norm- and rights-setting treaties, directives-issuing Commission and directly-effective Court of Justice judgements create for each of its member states an *external constitution* that has to be taken as seriously—sometimes more seriously—than their own, previously supreme, domestic constitution.

Recognition that we also have to come to grips with our external constitution is growing in Canada as scholars assimilate the significance not just of the WTO

but also of its precursors, the bilateral *Canada-United States Free Trade Agreement* (CUFTA) and the continental *North American Free Trade Agreement* (NAFTA).

Norms

CUFTA's extension of the trade principle of national treatment from goods to investment brought a generation of industrial-strategy policies to an end. No longer could Ottawa or Fredericton make rules to strengthen the competitive capacities of a domestic industry without offering these subsidies or tax concessions to those very foreign TNCs with which the local firms had been hoping to compete more effectively. Such norms are *constitutional* in the sense that they enjoy primacy over domestic legal principles. Without being written into domestic legislation, national treatment prevails in the sense that, should a U.S. corporation consider itself discriminated against by the government of New Brunswick, it can request that Washington launch a legal action against the government of Canada

Rules

The WTO's subsidy code enabled Canada to successfully attack Brazil in Geneva for subsidizing the international sales of Embraer's regional aircraft. In this respect, the subsidy rule increased Canada's international capacity. But the code equally empowered Brasilia to get the WTO's dispute-settlement arm to rule that Ottawa's subsidization of Bombardier's regional jet was illegal. In this respect the subsidy rule decreased Canada's domestic autonomy to make industrial policy. Such rules are *constitutional* not just because they prevail over domestic legislative or administrative powers but because they cannot be amended by domestic democratic processes of law- and regulation-making.

Rights

NAFTA gave American (and, in principle, Mexican) corporations operating in Canada greater rights to sue federal, provincial or municipal governments for alleged acts of expropriation than domestically-owned firms enjoy in Canada. The WTO extended to the world's giant pharmaceutical companies such iron-clad intellectual property rights to monopolize receipts from their drug patents that it is practically speaking impossible for cheap, generic versions of Big Pharma's medicines to be made available in the Third World to battle such pandemics as HIV and AIDS. Such rights are constitutional in the sense that they cannot be changed by domestic jurisdictions and that they prevail over domestic rights.

Following extensive parliamentary deliberation, the *Canadian Charter of Rights and Freedoms*, entrenched in the Constitution in 1982, did not declare any specific rights to property. Without any serious public discussion apart from the fevered partisan debate that dominated the 1988 federal election campaign, Canada's

external constitution now gives property rights to foreign corporations that exceed the rights of domestically owned enterprises.

Arbitration

The constitutional clout of these norms, rules and rights is not only due to their primacy over domestic law-making and the difficulty of amending them. They must be ranked as part of Canada's external constitution for two further reasons: first, there are strong transnational judicial processes that can make determinations concerning disputes among the parties and, second, their rulings are effectively enforced.

Chapter 11 of NAFTA establishes an international, but private, arbitral process that enables an aggrieved U.S. corporation to sue a Canadian government to get compensation for a regulatory measure it deems tantamount to expropriation. The American waste-disposal company S.D. Myers successfully sued Ottawa for having disallowed the shipment of PCBs from Canada to S.D. Myers' waste treatment plant in the United States—an interdiction that conformed with the *Basel Convention*, which control's the export of dangerous chemicals.

The WTO's dispute settlement procedures provided Washington a legal venue for retroactively but successfully challenging a number of federal policies protecting the Canadian magazine industry. Declared illegal, for instance, was the postal subsidy for domestic magazines that Ottawa had established many decades previously to encourage the circulation of domestic magazines in the face of such U.S. industry juggernauts as *Time* and *Reader's Digest*.

These institutions of transnational justice form part of Canada's external constitution either because they have direct effect domestically or because their rulings can otherwise be enforced internationally. In the first instance, Chapter 11 dispute rulings have direct effect because, for example, should Ottawa have refused to comply with the arbitration ruling on S.D. Myers, the U.S. company could have obtained satisfaction in Canadian courts.

In the second instance, should a losing defendant state fail to comply with a WTO ruling, the plaintiff country would then have the right to retaliate with trade sanctions equal to the value of the WTO's original award. It is this previously non-existent *legitimate* right to retaliate that gives the WTO's elaborate system of norms, rules, rights, and arbitral capacity its supra-constitutional bottom line, making it a significant element of Canada's external constitution.

III. THE GLOBAL REGIME'S DANGEROUS IMBALANCES

Various issues confronting the national and the global community can be clarified by analysing the last two decades' transformations of global governance in terms of their international and domestic constitutional significance.

1. The Supra-constitution

In the international domain, a tremendous imbalance characterizes the disparity between the authoritative, hard-law nature of the WTO's economic rules and the hortatory, soft-law character of most other multilateral agreements.

One question involves the coexistence of different levels of constitutional reality, where the norms of one contradict those of another. In one case, the WTO's imperative that quantitative restrictions on farm products be transformed into tariffs came into conflict with NAFTA's injunction that tariffs not be raised. A NAFTA dispute panel ruled that the WTO's provision trumped NAFTA's.

Even when governments wish to keep their commitments under one convention, they may find themselves disabled by another. Many multilateral environmental agreements are operationalized in terms of prohibiting such commercial transactions as the trade in endangered species or the export of hazardous chemicals. But the WTO's trade-liberalizing regime trumps such non-economic measures. We already saw that a NAFTA dispute panel gave no weight to Canada's commitment not to export dangerous chemicals by ruling in favour of "free" trade.

Without rebalancing this discrepancy in powers between the world's economic constitution on the one hand and all other international instruments on the other, the liberated forces of the market doom us to a re-run of the financial system's self-destructive proclivities.

2. The External Constitution

Domestically, the tension between a country's international obligations and its domestic practices becomes increasingly difficult to ignore. Even the mighty United States has come up against two WTO rulings in favour of its trading partners, in cases involving U.S. environmental restrictions meant to save dolphins during Mexican tuna fishing and save sea-turtles slaughtered by indiscriminate trawling.

So far, the Supreme Court of Canada has not had to rule on the constitutionality of NAFTA's Chapter 11 dispute settlement process. Chapter 11 gives international arbitration processes the power to invalidate federal, provincial or municipal regulations without amending the Canadian constitution to devolve this power from the courts. If

Chapter 11 investor-state dispute settlement were deemed unconstitutional, would it follow that Canada would have to abrogate NAFTA?

Our analysis has a wider and more nuanced ambition, since we want to trace out the empirical implications of the world's new supra-constitution in its economic and political dimensions.

3. Globalization through the Market

It would defy common knowledge to claim that its new external constitution is the only constraint limiting the Canadian state's autonomy. Half of the world's largest economies are transnational corporations; these companies carry out most of the world's trade. Their production chains and their marketing networks are global. Foreign investment in mines and resources may be relatively stable, but manufacturing plants and assembly sites can be closed down or moved offshore at short notice, while bond and portfolio capital is completely footloose. The first point of such economic analysis is to recognize how market forces have themselves liberated transnational corporations from the control of host states and given domestic-owned companies more clout in resisting their governments' efforts to regulate them, because they, too, can go global.

At the same time as information technologies have made possible 24-hour currency trading, the global supra-constitution has constrained member states' abilities to reduce their vulnerability to capital flight or even to control the performance of companies working within their territories. Host countries can no longer impose performance requirements on foreign investments by requiring that the would-be investor commit to guaranteeing certain levels of export, employment or technology transfer, or of locally purchasing the inputs it needs. States dare not require that their corporations' operations abroad comply with the same standards as at home (for example, anti-corruption standards) lest they lose business to competing corporations headquartered in other states that are unhindered by moral, ecological or humanitarian scruples.

Periodic outcries following individual corporations' environmental catastrophes or corruption scandals have generated occasional pressures to regulate particular industries or specific aspects of global business behaviour (for instance, in employing child labour). But the political voice of business is so powerful and the neoconservative ethos prevailing in governments is so deferential towards the doctrine of the invisible hand that voluntary codes of conduct, professions of corporate social responsibility and programs of industry self-regulation win out in the competition for public legitimacy over more effective mandatory regulation by democratically mandated authorities.

The process of privatizing state functions and further empowering market forces has important legal aspects. Investor-state dispute settlement under NAFTA Chapter 11 is but one manifestation of a more general phenomenon: the de-territorialization and privatization of law. This trend can be seen most clearly in the expansion, among transnational corporations, of the domain of international commercial arbitration known as *lex mercatoria*, a growing, private legal sphere outside the jurisdiction of states.

To service the needs of an expanding transnational marketplace, a legal globalization is occurring. With the transnational harmonization of national laws, the deeper pervasiveness of international law, the increasing use of model contracts, more international arbitration by commercial actors and the incorporation of foreign and international law in domestic courts, U.S.-based law firms have gone global to serve the needs of large TNCs as they operate in an international context defined by the largely U.S.-inspired legal norms entrenched in the WTO.

The strengthening of the strong and weakening of the weak by this globalization of the marketplace was not predicted by neoconservative globalism's standard bearers in the 1980s and 1990s. The reality of growing social and economic disparities within and between countries has nevertheless provoked reactions within global civil society, reactions that have expressed frustration at the consequences of de-democratization throughout the world, even if they have not been able to stop, let alone reverse, the global momentum of the neo-conservatism from whose impact they are suffering.

IV. A CALL FOR ACTION BY BOTH STATE AND CITIZENS

Except for the weakest in the world community, states are not passive objects of international pressures or helpless *rule takers* in a world dominated by great-power *rule makers*. A middle-sized power that, in a favourite academic cliché, has traditionally punched above its weight, Canada's federal and provincial governments have been active players in orchestrating their own constitutional constraints internationally while abdicating their powers over the domestic market. Rather than affirm that the Canadian state has retreated holus-bolus, it is more accurate to say that it has voluntarily given up many of its Keynesian regulatory capabilities while asserting greater powers to strengthen its police/security capabilities.

Globalization by the State

Beyond heeding the nostrums of neo-conservatism by devolving authority to global and continental governance bodies and by privatizing functions that expand the private sector's domain, Canadian governments have voluntarily dismantled their own powers by offloading functions to lower levels of government and cutting back the funding of existing programs and public-sector organizations. In order to generate their new

weakness, governments have paradoxically had to strengthen themselves both to resist the public's anger at the loss of its previous supports and to assert new powers, whether for enhanced anti-terrorism security; stricter immigration controls or better equipped armed forces with a new fighting, rather than peacekeeping, mission. In this way, Canadian governments have supported the global trend by encouraging the international movement of capital and goods while discouraging cross-country flows of people.

The picture we have seen emerge is not of a self-castrated Canadian state, but one whose normative thrust has shifted from emphasizing its liberal internationalism based on a discourse articulated in the values of democracy and equality in order to push a markedly more U.S.-style conservatism. Perhaps surprisingly, Liberal governments of the 1990s schizophrenically tried to embrace both perspectives, however contradictory one was with the other. While its left hand supported the development of international law to promote human security by leading the negotiation of an antipersonnel landmines treaty and pushing for the establishment of a International Criminal Court (ICC), Ottawa's right hand pursued the agenda of trade liberalization by imposing on South Africa the same kind of investor-state dispute settlement that Canadian civil society groups had protested against when they came to understand the workings of NAFTA Chapter 11.

While responsibility for a good part of Canada's growing democratic deficit can be placed on the shoulders of new global, continental and market governance that operates beyond the knowledge of most Canadian citizens and remain inaccessible even to the knowledgeable activists, a good deal of Canada's normative shift has been the product of deliberate federal and provincial government strategies. The refusal to take the threat of global warming seriously represents two decades of Ottawa's bipartisan denial. Complicity with the American torture of suspected Islamic militants started with the Liberal government's treatment of Maher Arar and has continued with the Conservatives government's refusal to take prisoners from Guantánamo or even to extradite Omar Khadr in Canada for his alleged crime.

Another—this time successful—variant of Ottawa's right hand not knowing what its left was doing followed Canada's loss at Washington's hands in Geneva of the famous *Sports Illustrated* case. The loss, which nullified several decades of public policy that had secured a considerable market for Canadian magazines, led the international community to establish an international convention under the United Nations Economic, Social, and Cultural Organization designed explicitly to establish norms that could be invoked to legitimize state policies aimed at preserving and promoting the diversity of cultural expression.

Still an easy target for scorn in the national Anglo-Saxon cultures that are by now deeply persuaded by the doctrines of neo-conservatism, cultural protectionism is

hardly a banner behind which states and citizens can rally and gain the support of their citizenry. Labour rights and human rights are also slogans that currently have little traction beyond the liberal-internationalist elite who still dominate in our faculties of law and social science. Equally, talking of an increasing global "democratic deficit" has little gravitational power to attract citizens to the barricades.

Our substitute—human *emancipation*—may not stir many hearts, but it is a notion more general than democracy and more centred on the achievement of equality and empowerment, which have been the objective of idealistic political thinkers for several centuries. This redefined program to stop and roll back the serious increases of inequality that characterize the world stage would, we believe, offer a rationale that could cause a change of the global neoconservative paradigm and help governments and citizens work towards a successful solution of its many crises.

Globalization from Below

In a curious adaptation of Karl Polanyi's famous theory of the late 19th century's "double movement," globalization's constraining effect on state action has stimulated vastly increased international activism by citizens and their organizations. In our case, even if the Canadian state has been a willing perpetrator of its own self-constraint, Canadian citizens are becoming increasingly active participants in their globalized world.

In the shorthand of international political economy, "globalization from above"—the neoconservative global constitutionalization generated by dominant states and their market players—is juxtaposed with the "globalization from below" that stems from civil society organizations and popular movements militating for, and sometimes achieving, change in the other direction.

In this domain, it still remains true that Canadians punch above their weight. The world's most effective global non-government organization (NGO), Greenpeace, was founded in Vancouver in 1970. A Canadian, James Orbinski, was presiding over Médecins sans Frontières when it received the Nobel Peace Prize. Maude Barlow is iconic, whether as saint or devil, in her leading the Council of Canadians to champion such international causes as the universal human right to water in the face of global TNCs' efforts to privatize access to and distribution of water. Another Canadian, scholar-cum-activist Janet Conway, did the research and the theorization, and also contributed her organizational moxie, to induce Canada's anti-poverty, Native, women's and labour movements to participate enthusiastically in the World Social Forum, from its inception in Brazil to its present global activities.

The distinction between globalization from above and globalization from below is far from watertight. Citizen groups pressure governments, and governments

use NGOs to obtain needed policy information and even to implement their policies in the field, particularly in the Third World. Fifty thousand demonstrators in the streets of Seattle in 1999 first raised public consciousness about the inequities constitutionalized in the WTO, whose practices subsequently became somewhat more NGO-friendly. It was outrage expressed by civil society that pushed Ottawa to champion a treaty banning anti-personnel mines. Ideas from civil society impelled Ottawa to lead the way towards the *Treaty of Rome*, which established the ICC. Canadian legal scholars—supported by the then-human rights reporter Michael Ignatieff—had much to do with the United Nations' development of its human-security doctrine of responsibility to protect.

Like governments, citizens are both objects of globalization and its subjects, both passive victims and active movers and shakers. Much of the creativity that has generated new forms of soft-law governance has come from the grass roots. Repeated failures to push their governments to adopt an effective, state-led international regime to preserve the world's forests caused NGOs to invent, in collaboration with business and governments, a complex hybrid known by the infelicitous label "non-state, market-led governance." However awkward the nomenclature, using market forces and complex rules (which give the global South equal voice with the global North and provide Aboriginals in British Columbia with the weight that their rights over vast forests merited) to change disastrous logging practices has been an impressive accomplishment by one section of global civil society.

These examples give some sense of what citizens have done to try to correct the constitutional and market imbalances that are constraining the regulatory state, exacerbating global inequalities and threatening the planet's survival as a hospitable environment for human life. They also suggest a way forward.

Citizen activism is necessary but not sufficient. If the market's capacity to self-destruct is to be contained, governments must get in step with their farther-sighted citizenry in order to give effect of priority to human emancipation rather than market liberation.

This will entail a rebalancing of the global supra-constitution, a consequent rewriting of Canada's external constitution, and the displacement of presently dominant neoconservative values with the articulation and implementation of global norms of emancipatory social justice that have always marked the hopes of history's best thinkers. It has happened before with the redesign of global economic institutions following World War II and the extraordinary creation of a European supranational political entity. Re-establishing symmetry between supranational economic and social governance must happen again.