

Flawed strategies to reducing labor exploitations

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7.2.2 *Plurality and Polycentricity*

The need for plurality or respecting a polycentric view, is related – perhaps even implied – in the recommendation for a more inclusive, collaborative approach that the reflexive governance/adaptive management model calls for. By including all types of stakeholders, not just the lawmakers, but company representatives, members of NGOs, average consumers, laborers at the bottom end of the supply chain and so on, the decision-making process of such a composition will inevitably have cognitive diversity, but also many disagreements. In an environment of “conflicting normative positions,” one “cannot simply assert a normative position and expect it to triumph.”¹⁶¹⁴ This is why plurality of not just laws, but of opinions and views become a prerequisite for the successful implementation of the alternative framework. While psychologists and sociologists have observed our tendency to ask the question of “what is our best solution” and focusing only on that ideal outcome, it is important – especially given the unpredictability of the future – for stakeholders to allow “several ideas to develop in parallel [because] what seemed initially like an inferior option may turn out to be exactly what we need.”¹⁶¹⁵ This reverence for polycentricity, as this subsection will show, is nothing new or innovative, as the intellectuals that joined the Romanticism movement back in the 19th Century can attest to (Part A). In short, not everything can or should be rationalized, and some solutions should be based on intuition and emotion. This suggests that private actors and stakeholders must be open-minded and be willing to occasionally accept ideas that they might not see any value in initially (Part B). Our alternative framework, which allows for this, is yet another reason to validate its utility and potential.

A. Embracing the Romantics

Romantics like Johann Wolfgang van Goethe or William Blake questioned the “tendency of reducing all phenomena to... ‘a single vision,’”¹⁶¹⁶ implying the risk often associated with monism, which is that dogged adherence to believing that there is only one absolute truth often leave the monists vulnerable to reality. Those that carry on their spirit today like Ugo Mattei, believe that the law ought to “reflect the felt needs of society, the spirit of the people, rather than the needs of state or corporate actors.”¹⁶¹⁷ To the extent that laws may not always be capable of doing so, societies must find alternative ways to express and defend their spirit or their zeitgeist, which is possible through our alternative framework that combines reflexive governance, adaptive management, and private global norm production. The idea of pluralism is essential in this context because as is, “our discourse and our legal

¹⁶¹⁴ P. SCHIFF BERMAN, *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders*, (New York: Cambridge University Press, 2012), at p. 323 (adding that “we cannot expect that a single universal normative position is likely to prevail either, except in limited spheres and for limited times”); see also, A. RÜHMKORF, *Corporate Social Responsibility, Private Law and Global Supply Chains*, (Cheltenham: Edward Elgar, 2015), at p. 210 (advocating for a “more pluralistic approach.”).

¹⁶¹⁵ T. HARFORD, *Adapt: Why Success Always Starts with Failure*, (London: Abacus, 2012), at p. 87 (noting that the idea of a plurality “runs counter to our instincts”).

¹⁶¹⁶ F. CAPRA & U. MATTEI, *The Ecology of Law: Toward a Legal System in Tune with Nature and Community*, (Oakland: Berrett-Koehler, 2015), at p. 88.

¹⁶¹⁷ F. CAPRA & U. MATTEI, *The Ecology of Law: Toward a Legal System in Tune with Nature and Community*, (Oakland: Berrett-Koehler, 2015), at p. 132.