

Towards a new legally oriented environment (“LOE”) at global level: The Whys of the Italian Pathfinder Role

SOMMARIO: 1. Rule of law: a retrospective overview from the Italian experience. – 2. The nexus between legally oriented environment and sustainable development. – 3. Legally oriented environment as an enabler for environmental sustainability and law and justice. – 4. Further areas of application: the digital divide. – 5. Taking into account informal justice systems. — 6. Conclusions and the way forward.

ABSTRACT

The recent 70th anniversary of the United Nations reminded that this premier multilateral organization pursues the development of friendly relations among States based on the protection of the right to national and international equality, cooperation in the economic, social, cultural and humanitarian dimensions.

The “Rule of Law” is important against the abuse of power and is a mere tool for a government that suppresses in a legalistic fashion. The “Rule by Law” may be used as a tool to oppress or discriminate against people and avoid accountability under the guise of formality, legality and legitimacy. Moreover, the “Rule of Law” is an instrumental value to economic sustainable growth in delivering concrete development.

The Italian achievements are demonstrated by the experience acquired in G20 anti-corruption initiatives which vouch for our country’s legitimacy and credibility on priority areas related to the struggle against global crime, drugs, money laundering, terrorism.

Moreover, Italian juridical Diplomacy for the promotion of the rule of law at the multilateral level is framed according to the guidelines of sustainable development and the protection of human rights. Italy believes that the fight against corruption, at the international level, can act as an economic growth, employment, and investor confidence, thus enabling a more concrete protection of human rights.

The ongoing initiatives in favor of Central American countries aimed at disseminating the legal culture and the safety systems of our country in this strategic region through the “Plan de Apoyo II”, as part of the Central American Security Strategy.

The Italian model of “Confiscation” determines a severe loss of prestige and influence for mafias in their own environment since it stops their capacity to condition the surrounding territorial socio-economic realities.

The Italian Development Cooperation is supporting the rule of law in Africa together with International Development Law Organization (IDLO) by generating greater awareness and political commitment.

So, Italy intends to develop an innovative and up-to-date approach placing rule of law at the center for the purposes of socio-economic and environmental sustainable growth, the rule of law builds confidence in state institutions and the important development role of all stakeholders can promote justice principles in the rural context, such as good governance, transparency, accountability and access to justice.

Finally, the rule of law at the national and international level regulates the relationship between natural resources and conflict. The international legal framework in place to regulate this relationship is becoming increasingly important and gives rise to many remedies available in both times of war and times of peace.

Il recente 70° anniversario delle Nazioni Unite ha ricordato che, in qualità di organizzazione internazionale, le Nazioni Unite perseguono lo sviluppo di relazioni tra gli Stati volti alla tutela del diritto di uguaglianza nazionale e internazionale, della cooperazione nelle dimensioni economiche, sociali, culturali e umanitarie.

La “Rule of law”, importante contro l’abuso di potere, è un mero strumento per un governo che sopprime reati attraverso l’applicazione della legge. Invece, the “Rule by law” può essere utilizzato come uno strumento volto ad opprimere o a discriminare le persone ed evitare la responsabilità con il pretesto di formalità, legalità e legittimità. Inoltre, “Rule of law” costituisce un valore fondamentale per una crescita economica sostenibile nella realizzazione di un concreto sviluppo.

I risultati italiani sono dimostrati dall’esperienza acquisita nel G20 in cui le iniziative anti-corruzione garantiscono la legittimità del nostro paese e la credibilità sui settori prioritari connessi alla lotta contro la criminalità globale, la droga, il riciclaggio di denaro, il terrorismo.

Inoltre, Diplomazia italiana per la promozione della “Rule of law” a livello internazionale, inquadrata secondo le linee guida dello sviluppo sostenibile e la tutela dei diritti umani, ritiene che la lotta contro la corruzione, a livello internazionale, può favorire e concretamente realizzare una crescita economica, l’occupazione, e la fiducia degli investitori, consentendo in tal modo una protezione più concreta dei diritti umani.

Le iniziative in corso a favore dei paesi dell’America centrale, volte a diffondere la cultura giuridica e dei sistemi di sicurezza del nostro paese in questa regione, è resa possibile attraverso il “Plan de Apoyo II”, come parte della strategia di sicurezza del Centro America.

Inoltre, il modello italiano “confisca” determina una grave perdita di prestigio e di influenza per le mafie nel proprio ambiente in quanto la loro capacità di condizionare le realtà socio-economiche territoriali circostanti trova una battuta d’arresto.

La Cooperazione Italiana sostiene the rule of law in Africa insieme alla legge di sviluppo International Organization (IDLO) generando una maggiore consapevolezza ed impegno politico.

Così, l’Italia intende sviluppare un innovativo ed un aggiornato approccio ponendo the rule of law al centro dell’attenzione al fine di attuare la crescita socio-economica e ambientale sostenibile; the rule of law costruisce la fiducia nelle istituzioni statali e l’importante ruolo di sviluppo di tutti i soggetti interessati possono promuovere i principi di giustizia nel contesto rurale, quali il buon governo, la trasparenza, la responsabilità e la giustizia.

Infine, the rule of law, a livello nazionale ed internazionale, regola il rapporto tra risorse naturali e conflitti. Il quadro giuridico internazionale in atto per regolare questo rapporto sta diventando sempre più importante e dà luogo a molti rimedi disponibili in tempi di guerra e in tempo di pace.

1 . Rule of law: a retrospective overview from the italian experience.

Contemporary economic science emphasizes the crucial role of a legally oriented environment for better protecting all the subjective legal positions, among which the most important are human rights.

That assertion has acquired a meaning laden with even more consequence if we focus our attention on the recent 70th anniversary of the United Nations. Founded after the Second World War, this premier multilateral organization pursues the development of friendly relations among States, based on the protection of the right to equality, at both the international and national level, and cooperation in the economic, social, cultural and humanitarian dimensions.

The Secretary-General of the United Nations has defined the rule of law as “*a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency*” (<https://www.un.org/ruleoflaw/>).

It is also worth recalling here the substantive definition of the rule of law endorsed by the Council of the International Bar Association in a resolution passed in 2009:

“an independent, impartial judiciary; the presumption of innocence; the right to a fair and public trial without undue delay; a rational and proportionate approach to punishment; a strong and independent legal profession; strict protection of confidential communications between lawyer and client; equality of all before the law; these are all fundamental principles of the Rule of Law. Accordingly, arbitrary arrests; secret trials; indefinite detention without trial; cruel or degrading treatment or punishment; intimidation or corruption in the electoral process, are all unacceptable. The Rule of Law is the foundation of a civilised society. It establishes a transparent process accessible and equal to all. It ensures adherence to principles that both liberate and protect”.

The 2012 High-Level Meeting of the General Assembly’s Declaration on the Rule of Law at the National and International Levels is another quite eloquent multilateral milestone.

In the past 70 years, the “Rule of Law”, which makes the rulers and the ruled equally responsible before the law itself, has not been considered by Italy, as a one size fits for all blueprint in engineering public institutions apt to bring about sustainable development. It was rather thought of as a set of values inspiring the engineering and therefore allowing for a multifarious implementation.

The concept of “Rule of Law” is distinct from “Rule by Law”. The difference is that in the former the law is preeminent and can serve as a check against the abuse of power. Under the latter, the law is a mere tool for a government that suppresses in a legalistic fashion. In the “Rule by Law” approach law may be used as a tool to oppress or discriminate against people and avoid accountability under the guise of formality, legality and legitimacy.

According to Italian vision, the institutional and procedural versatility of a “Rule of Law” in the service of economic, social and environmental needs is rich and multifaceted. Moreover, the “Rule of Law” is both a means and an outcome: it is of intrinsic as well as instrumental value to economic sustainable growth in delivering concrete development outcomes, locally owned and tailored to local needs. It also takes into due account cultural and religious traditions and local realities.

Since the promulgation of the 1948 Republican Constitution, Italy has placed the individual at the heart of the regulation of human relationships, the economy, labor market and development; therefore, it is correct to assume that there is an Italian Rule of Law, oriented and protected constitutionally, grounded on the right of the individual. Man and his fundamental prerogatives are indeed at the center of the Italian legal system. As a result, Italy’s legal system is absolutely cutting edge in *subjecta materia*. Italy is apt to export in multilateral fora and to interested foreign States its fundamental philosophy: an attitude and know-how which provide, coincidentally, invaluable feedback for the country’s international profile and image.

In practice, the soundness of what we have just underlined is demonstrated by recent Italian achievements. In particular, the leading role Italy played and the experience acquired in G20 anti-corruption initiatives vouch for our country’s legitimacy and credibility as we engage with other multilateral fora on priority areas related to the struggle against global crime, drugs, money laundering, terrorism.

With the G20 Group as the premier world economic forum, dedicated not only to the management of the contingent economic crisis or strictly financial matters, but rather the promotion of global standards that involve both advanced economies and emerging countries, the efficient co-presidency of the G20 anti-corruption action yielded a significant boost to Italy’s profile.

A further demonstration of the impetus driving Italy occurred, on March 16th 2016, when Andrea Orlando, Italian Minister of Justice, chaired in Paris the OECD Ministerial Meeting on

the Anti-Bribery Convention to which Ministers from all 41 State Parties to the Convention and 27 Ministers from key partner countries participated, along with the heads of other international organizations and leaders from the private sector and civil society. The meeting provided a unique platform to discuss measures to strengthen implementation of the Anti-Bribery Convention and was also an important opportunity to exchange ideas on combating foreign bribery and issues such as whistleblower protection and facilitating voluntary disclosure, international cooperation, and anti-corruption compliance.

The choice to take on a role of international leadership in a sensitive area like anti-corruption – which often places Italy in a defensive position due to publicity-seeking journalistic reports and/or the coinciding of national data comparisons - underscores to the experts in the international community that the Italian government is pursuing with determination and professionalism a qualitative strategic leap, exemplified in the enhancement of the National Anti-Corruption Authority.

Neither the dialogue between the Italian Constitutional Court and the European Court of Human Rights (CHR) which on occasion has condemned certain Italian legal institutions, highlighting their critical weaknesses, can find fault with the following overall proposition. Italy effectively and efficiently guarantees the fundamental rights of the individual as a consequence of its institutional structure based on a legally oriented economic environment and the separation of state powers, along with a judiciary system independent and autonomous from the executive branch.

Moreover, Italian Diplomacy for the promotion of the rule of law at the multilateral level is framed according to the guidelines of sustainable development and the protection of human rights, enhancing the specificity of a vision that ensures effective equality of all citizens before the law, whether holders of fundamental rights or economic actors involved in the market or in transactions with the public administration. Italy is among the first three EU States to develop pathfinder approaches in the implementation of the United Nations Principles on Business and Human Rights which are based on: States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms; the role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; the need for rights and obligations to be matched to appropriate and effective remedies when breached.

Italy believes that the fight against corruption, at the international level, can act as a powerful driver for sustainable economic growth, employment, and investor confidence, thus enabling a more concrete protection of human rights. Paramount milestones in this direction are, among others: the High Principles on Corruption and Growth, approved by the G20 Anti-corruption Working Group in Paris; the G20 Anti-corruption Action Plans 2015 and 2016; the March 16, 2016 OECD Anti-bribery Ministerial Declaration whereby Representatives from the signatory countries note the need for enhancing enforcement of their laws implementing the foreign bribery offence against legal persons, including state-owned or controlled enterprises. The Parties call for greater efforts to fight foreign bribery and corruption and recognize the importance of appealing to non-Parties that are major exporters and foreign investors to accede to and implement the Anti-Bribery Convention and support ongoing consultations to promote wider participation in the Convention. World Bank studies that theorize the possibility of notably increasing the gross domestic product by combating corruption warrant specific consideration.

Advanced, developing, and underdeveloped economies all recognize this axiom. Much more so for the latter which are too often on the margins both of legally oriented economic environments and anti-corruption rules and standards.

On this last point, the ongoing initiatives in favor of Central American countries aimed at disseminating the legal culture and the safety systems of our country in this strategic region represent an Italian driven best practice. They testify to the benevolence inherent in the ontological political assumption inspiring Italy. We refer to the approach fostered by the “Directorate-General for Globalization of the Ministry of Foreign Affairs and International Cooperation,” through the “Plan de Apoyo II”, as part of the Central American Security Strategy.

The philosophy exemplified by the Plan is based on the fact that contemporary economic and legal analysis suggest that profit is the principal, if not the only, real motive of criminal organizations; consequently, a credible counter strategy to the most brutal manifestation of modern crime cannot be devised without effective means of aggression towards the criminal assets themselves.

Italy maintains that the structure of today’s most aggressive criminal organizations withstands even massive repressive police operations centered on individual criminals.

In other words, the application of both personal prevention and coercive measures against criminals (prison sentences included) can always leave margins of survival to criminal associations if they are not accompanied by law enforcement activities focused on prevention and seizure of illicit goods: these last are indeed capable of providing generational turnover and renewal of mafia human resources.

In conclusion, Italy has developed a model on asset recovery based on the following factual premises in line with “The Financial Action Task Force on Money Laundering” (FATF, housed at the headquarters of the OECD in Paris):

- a) organized crime is profit oriented;
- b) profit is at the core of corruptive phenomena;
- c) illegal capital systematically flows into the licit market in order to:
 - increase profit margins;
 - better cover-up illicit activities;
 - facilitate the gradual social infiltration of criminal groups;
- d) cracking down on illicit capital is the best way to quantitatively reduce the constant regeneration of criminal associations and the foundations of their negative social influence and territorial control.

Therefore, all forms of contemporary crime need to be tackled with the high impact instruments of criminal asset seizure.

The conceptual apex of the Italian model on asset recovery has been stated by the Italian Constitutional Court, whose vision can be summarized as “the wealth originated by illicit assets should not be lost to the surrounding communities”.

Consequently, all efforts should be deployed to include the confiscated property into the virtuous economic circuit.

A significant part of the appeal of the Italian model lies also in its symbolic allure and usefulness as a mechanism to express disapproval. Its proponents sought to maintain higher moral boundaries between acceptable and unacceptable behaviour in international society.

Confiscation determines a severe loss of prestige and influence for mafias in their own environment, far more onerous than detention itself, since it stops their capacity to condition the surrounding territorial socio-economic realities.

It is also highly rewarding that a new generation of transnational institutions are playing an important role in underlining the crucial role of asset recovery in fighting and cracking down organized crime and corruption. They are effectively grounding their advocacy in science, compassion, health and human rights.

Italy underlines that its model on asset recovery is reinvigorated by the Framework Decision 2005/212 /JHA of the EU Council which begins precisely by stating: “*the main motive for cross-border organized crime is financial gain; effective action to prevent and combat organized crime must focus on tracing, freezing, seizure and confiscation of proceeds of crime*”.

This vision is also one of the main roots of the high-level principles on beneficial ownership transparency.

It is also worth highlighting that, according to the Italian vision, institutions (both of a political and legal nature) are only one factor among the many variables contributing to the assertiveness of the “Rule of Law”. Cultural and social values truly play a prominent role.

2. The nexus between legally oriented environment and sustainable development.

Italy believes that political and diplomatic engagement in favor of a new, legally oriented economic environment at the global level has a dual function: shielding citizens from arbitrary governmental acts opposed to United Nations Principles; facilitating ordered and well-regulated, “sustainable” social relations.

We observe the transition to a market economy in many countries is a major force driving the shift towards the rule of law because it matters significantly to foreign investors and economic development. This trend will hopefully spill over from commercial matters into other areas enhancing prospects for related values such as human rights and democracy.

Moreover, future Italian efforts for achieving the Sustainable Development Goals (SDGs) foreseen by the 2030 U.N. Agenda for Sustainable Development are going to add new substantial dimensions to the classical canons of legal formalism since they promote a “Rule of law” more adequately supporting human rights, the integrity of the territorial communities, social inclusion, specific public goods and public values.

Italy is well aware of how Goal 16 of the Sustainable Development Goals fits as the keystone at the bedrock of development. It is dedicated to the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels.

According to recent statements by the International Development Law Organization (IDLO), based in Rome:

“Goal 16 is remarkable in that it puts the rule of law squarely at the heart of development – no longer an optional extra, but the very stuff without which no development can be sustained. It lays strong emphasis on access to justice, on the quality and inclusivity of institutions, and on the necessity of a legal identity for all. In doing so, Goal 16 underscores the *legal* dimension of development, rather than merely its economic one. Goal 16, in other words, speaks the language of rights. But so do – and herein lies the 2030 Agenda’s transformative potential – all of the other goals. Whether the focus is on health, on equality for women and girls, or on the discriminatory effects of climate change, the law is recognized either as essential or as a key contributor. The rule of law thus becomes the underlying philosophy of the entire document, and the achievement of it a central quest of our time”¹.

¹ International Development Law Organization (IDLO), *2030 Agenda: Making the Rule of Law the Bedrock of Development*, 23 September 2015, available at: <http://www.idlo.int/news/highlights/2030-agenda-making-rule-law->

Goal 16 calls to mind the precursor “Aspiration 3” of Agenda 2063 adopted in May 2013 by the African Union when it initiated the 50-year development action plan and clearly recognized that the rule of law is an indispensable means to promote sustainable development. The aforementioned “Aspiration” makes explicit reference to “*An Africa of good governance, democracy, respect for human rights, justice and the rule of law*”.

The African Union’s Common African Position (CAP) on the post-2015 development agenda provides an agreed set of specific African priorities, many of which are mirrored by the SDGs and fully aligned with Agenda 2063.

The CAP highlights the need to build productive capacities, including greater access to quality education and health care, youth development and women’s empowerment, sustainable resource management, environmental degradation and climate change, as well as the promotion of peace and security and the establishment of a more accountable global governance architecture.

Advancing justice and the rule of law is central to the enabling environment to achieve these priorities.

The Italian Development Cooperation is supporting the rule of law in Africa together with International Development Law Organization (IDLO) by generating greater awareness and political commitment; exploring and initiating programming opportunities for concrete action; encouraging evidence-based research and policy development on the issues, while supporting and strengthening national and regional networks and partnerships.

Consultations so far have indicated interest in the following themes:

- effective, accountable and inclusive institutions with a focus on the justice sector;
- gender equality, access to justice and empowerment of women and girls;
- health and well-being through the rule of law and access to justice;
- economic development through the rule of law.

To start the ball rolling, IDLO organized the conference on “Achieving the 2030 Agenda and Agenda 2063: The Rule of Law as A Driver of Africa’s Sustainable Development” in Dar es Salaam June 1-2, 2016 in cooperation with the Government of the United Republic of Tanzania and the Italian Development Cooperation.

The advice and support of leading African personalities (including former President of Tanzania Benjamin Mkapa, Chief Justice Willy Mutunga of Kenya, Justice Albie Sachs of South Africa, and others) proved very helpful in designing the conference.

This two-day seminal exercise proposed a multidisciplinary and inclusive approach, engaging a wide range of African stakeholders including: political leaders; parliamentarians; senior government officials; members of the judiciary; law and development experts, practitioners and policy makers; and civil society leaders. Representatives of the international community and the private sector were also invited to contribute to the discussions².

Since facts and figures at world level speak volumes, we wish to recall several impressive observations:

bedrock-development.

² IDLO, *Africa Rule of Law Conference for Sustainable Development Report*, December 6, 2016, available at: <http://www.idlo.int/sites/default/files/pdfs/publications/12-6-2016%20Africa%20report.pdf> and IDLO, *IDLO-Tanzania Conference Calls for Africa-wide Collaboration*, June 9, 2016, available at: <http://www.idlo.int/news/highlights/idlo-tanzania-conference-calls-africa-wide-collaboration>.

- the judiciary and police are among the institutions most affected by corruption;
- corruption, bribery, theft and tax evasion cost developing countries some US \$1.26 trillion per year; this amount of money could be used to lift those who are living on less than \$1.25 a day above \$1.25 for at least six years;
- the rate of children leaving primary school in conflict-affected countries reached 50 percent in 2011, or 28.5 million children, showing the impact of unstable societies on one of the major goals of the post 2015 agenda: education;
- the rule of law and development are significantly interrelated and mutually reinforcing, making rule of law essential for sustainable development at the national and international level.

Let us also briefly examine, the negative economic consequences originating in the absence of a Legally Oriented Environment (LOE) approach:

- a) misallocated resources. Resources that otherwise could be directed towards production of goods and services are often devoted to corruption. This includes direct resources involved in cash transfers and indirect ones, such as maintaining contacts with government officials or providing an operation or production license to a less efficient firm. Corruption also misallocates resources that could otherwise be used for provision of public services. Funds for licenses or tax income, instead of contributing to the budget, may simply end up in the pockets of corrupt government employees. Also, resources are not used most efficiently, as it is not the most efficient but, rather, the best-connected firm that gets a government contract;*
- b) misguided and unresponsive policies and regulations. In corrupt systems, lawmakers will often generate policies and regulations that are not intended to improve the overall economic or political environment. Rather, they benefit a few who are close to the decision makers or those who are bribing government officials to pass a favorable regulation;*
- c) lowered investment levels. Corruption has negative effects on the levels of both foreign and domestic investment. Investors will ultimately avoid environments where corruption is rampant because it increases the cost of doing business and undermines the rule of law. Corruption is also often associated with a high degree of uncertainty, something that always drives investors away;*
- d) reduced competition and efficiency. Government officials demanding bribes for providing or denying services like licenses or permits limit the number of firms able to enter the market, thereby creating a “rent-seeking” environment that forces companies that are unwilling or unable to pay bribes into the informal economy. Rent-seeking sometimes leads to trade protectionism, and also to the fact that bad quality or inefficiently produced inputs result, which in turn lowers effectiveness, productivity, and competitiveness. Overall, the lack of competition hurts consumers who receive fewer technologically advanced goods and goods of otherwise lower quality while paying higher prices;*
- e) lowered public revenue for essential goods and services. Tax evasion is one of the biggest threats to government revenue flow. It is widespread in corrupt countries because informal firms do not report their profits and subsequently do not pay taxes. Also, firms that operate in the formal economy will pay bribes instead of taxes when the tax administration is corrupt or when widespread opportunities for abuse of the tax code exist. Moreover, corrupt government agents take for themselves fees and payments they collect from firms for the state budget, thus depriving the government of funds needed to provide essential goods and services;*
- f) increased public spending. Public investment projects often offer opportunities for government officials to get bribes. Simply put, faced with the possibility to directly benefit from awarding contracts to cronies, government officials will promote as many public investment*

- projects as possible. In fact, these scandals erupt not only in corrupt developing countries, but also in more developed nations where corruption is less rampant. In many countries, it is sometimes the case that projects awarded to cronies are never finished as funds simply get stolen. Corruption also leads to mismanagement of public investment projects and thus contributes to larger fiscal deficits, jeopardizing sound fiscal policy;*
- g) lowered productivity and discouraged innovation. In corrupt systems, individuals and firms spend time and resources engaging in corruption (paying bribes, nurturing relationships with corrupt agents, etc.) rather than in growth-enhancing activities. Also, corruption discourages innovation as corrupt systems lack rule of law institutions that protect property rights;*
 - b) increased costs of doing business. Time and money spent on bribing government officials and dealing with complex regulations increase the costs of doing business. These costs are either passed on to the consumers through increased prices or products of lower quality or serve as a barrier to market entry by firms. Also, corrupt judicial systems limit the ability of business to enforce contracts, hindering normal operation and blocking new opportunities;*
 - i) lowered growth levels. Corruption hurts small enterprises because the high costs of corruption (time and money) are harder to sustain for smaller firms than for larger firms. Generally, small firms have less power to avoid corruption, and since they tend to operate in highly competitive environments, they can't pass on the costs of corruption to customers. Thus, it is harder for small businesses to survive in corrupt environments, and this hurts an economy's growth rate because small firms are the engine of growth in most economies;*
 - l) lowered private sector employment levels. By forcing business into the informal sector, creating barriers to entry, and increasing the costs of doing business, corruption essentially reduces private sector employment because firms are less likely to grow and expand;*
 - m) reduced number of quality public sector jobs. Corrupt governments often offer many low-paying jobs to patronize key constituents. Also, the quality of public jobs suffers in corrupt systems because government officials spend resources on extorting bribes rather than providing services. For example, in many cases, within licensing agencies, public officials will simply stall the licensing process if they don't receive additional payments or gifts;*
 - n) exacerbated poverty and inequality. Corruption lowers the income-earning potential of the poor because there are fewer private sector opportunities. Also, corruption facilitates inequality because by reduced spending on public sector services limits access to such essential resources as health care and education;*
 - o) undermined rule of law. Corruption creates a culture where government officials are not held accountable for their actions. Also, in corrupt systems, laws and regulations on paper are not enforced consistently and fairly. Therefore, what matters is not the law but whom you know and how much you are willing to pay;*
 - p) hindered democratic, market-oriented reforms. In order to be successful in building market economies and democratic societies, countries have to build and develop institutions that provide for the enforcement of laws and ensure a transparent and inclusive policy-making process. In corrupt systems, developing such sound and well-designed institutions is an arduous task. Corrupt government officials responsible for reforms are less likely to take measures that will directly limit their ability to personally benefit from bribes and kickbacks. Corruption also undermines the legitimacy of public office and hurts the democratic process by discouraging people from participation;*
 - q) increased political instability. Widespread corruption contributes to political instability because citizens are encouraged to oust leaders who are corrupt and who can't effectively represent the interests of people;*

r) *high crime rates. Corruption fosters a system with a high disregard for the rule of law and creates a society where legal, judicial, and enforcement institutions are ineffective. In corrupt systems, it is easy for crooks to buy their way out of punishment. Corruption not only leads to political and corporate crime but also fosters organized crime.*

In the Italian view, Goal 16 of the Sustainable Development Goals has another crucial implication: the growing rooting of the “Rule of Law” in innovative multi-stakeholder approaches. Governments, enterprises, and scientific groups can no longer develop sustainability and rule of law-related initiatives in a parallel or disjunctive way.

Global interdependence and international solidarity now underpin the notion of sustainable development. As human societies grow increasingly interconnected, moral obligations binding people across continents are slowly but decisively taking root.

The traditional governance role of the Nation State has been eroded at supranational and sub-national levels. Defining adequate political solutions to the new global sustainability and human rights challenges requires a multi-stakeholder approach and a constructive interplay between governments, enterprises, and civil society, with specific reference to the scientific community.

Moreover, a new trend is emerging and coalescing: advancing the rule of law through engagement with responsible businesses to voluntarily support the building and strengthening of legal frameworks and the promotion of more accountable institutions – serving as a complement to, not a substitute for, government action (<https://www.unglobalcompact.org/take-action/action/business-rule-of-law>).

Support for rule of law can take a variety of interconnected forms. Businesses can provide financial and/or in-kind support to governments organizations to strengthen the rule of law. Additionally, they can help consolidate the rule of law through their commercial products and services. These efforts include assisting with the process of law-making and implementation, access to information, and the administration and access to justice.

Businesses can publicly acknowledge rule of law challenges in their own operating environment and take action, independently or collectively, through advocacy and/or public policy engagement.

Last but not least, businesses have the opportunity to engage in efforts to advance the rule of law through a broad variety of partnership and initiatives that pool expertise and resources in order to deliver optimal impact.

We are witnessing the proliferation and rationalization of sustainability and rule of law paradigms and standards in a variety of areas.

These trends raise the challenge of how existing systems of governance at the international, national, and regional levels could be reformed to ensure more desirable patterns of societal advancement through progressive rule of law.

The term “sustainability”, also seen through the rule of law lens, remains at the heart of contemporary international relations³. It provides a useful framework for debate, while at the same time, remaining open to constant examination and reinterpretation thereby fostering the progressive rule of law mentioned above. The new trend moving from compliance-driven concepts to impact-driven ones are challenging traditional notions of corporate social respon-

³ IDLO, *Doing Justice to Sustainable Development: Integrating the Rule of Law into the Post-2015 Development Agenda*, June 18, 2014, available at: <http://www.idlo.int/publications/doing-justice-sustainable-development>.

sibility (CSR) and rule of law. The initial focus on adherence to legal requirements is now combined with renewed attention to added value. Modern CSR and rule of law go in parallel with Social Impact Business which is defining and promoting business models for delivering positive social and environmental change.

Italy intends to develop an innovative and up-to-date approach placing rule of law at the center for the purposes of socio-economic and environmental sustainable growth within the different dimensions of international policy. We want to identify synergies across the various ongoing efforts – at the national and international levels – motivated by the same overarching rule of law for sustainability vision. Of course, the ongoing development of a national framework, whereby public initiatives and entrepreneurial activities interact to shape and provide credibility to a such an approach, is of paramount priority. Laying the conditions for a multi-sector (public, private, civil society, and academia) collaborative effort is key to achieving this goal.

Besides promoting the integration of the various actors and ongoing initiatives for the pursuit of rule of law for sustainability-related goals, the main drivers are the following:

- a) behavioral change. The litmus test for the effectiveness of rule of law for sustainability-related initiatives is the extent to which the target groups (individual citizens, communities, enterprises, public administrations at the local, regional and national level) change the way they behave on a regular basis;
- b) experimentation and best practices. The key process to identify best practices in transformational change initiatives consists of well designed and implemented pilot projects where learning is possible and scaled up efforts are likely to generate the expected results.

It is important to note that our approach builds upon a national legacy in the field of rule of law for sustainability which has its roots in the Middle Age. Our history is evidence of a country which, over the centuries, has produced invaluable juridical values together with technical and social innovations, generating remarkable socio-economic well-being. These innovations produced sustainable, legally oriented and noteworthy benefits for mankind, well beyond the country's borders.

Summing up, Italy's qualitative leap forward from the more traditional rule of law notion (based on a formalistic and a substantive approach) is embodied in the functionalist notion of LOE (Legally Oriented Environment) for sustainable growth.

LOE is attuned to the most advanced concept of rule of law as articulated by the Rome-based International Development Law Organization (IDLO) in light of the principle lessons learned from experience over the past thirty years:

“1. The rule of law is not an abstract concept, but a concrete basis from which to eradicate poverty, fight discrimination and exclusion, and protect the environment.

By providing predictability and certainty through a stable, transparent legal regime, economic development is promoted. By fighting discrimination, ensuring equal opportunity and equitable access to basic services, social development is aided by the rule of law. And by strengthening the legal framework for natural resource management, fair and sustainable use of the planet is ensured. Seen in this way, the rule of law is crucial and relevant to all three dimensions of sustainable development - economic, social and environmental.

The rule of law provides the framework for transparent, responsive and accountable institutions. So, by building people's confidence in institutions, the rule of law promotes peaceful societies, as well as sustainable development. It is important however to note that the rule of law, understood in this way, goes beyond efficient courts and the administration of criminal justice to encompass the basis for a just society. Equality, accountability and respect for human rights - including economic, social and cultural rights, as well as civil and political rights - are

integral parts of the rule of law in this sense. Ensuring that the state has the proper institutions to fight crime and violence is important but our experience indicates that this is not enough if people do not see equality, equal opportunity and fair treatment in their own daily lives. People do not, and cannot, have confidence in institutions that do not operate in a fair and transparent manner.

2. National ownership and an understanding of the national and local context are fundamental to effective reform.

When national ownership is underpinned by political will, only then is it possible to achieve meaningful and lasting judicial and legal reform. That is the lesson that IDLO draws from its experience of over 30 years of work in the rule of law sector. Legal pluralism is a basic principle of IDLO's work around the world.

Each country has a distinct legal system with its own jurisprudence. Just as the development challenges of each country are unique, the justice-making efforts of each country are also deeply rooted in specific histories, politics, jurisprudence, values, customs and traditions. Furthermore, rules and remedies may need to be informed not just by the national legal system but also by local, customary or informal practices, taking into account the specific circumstances of each country, while respecting the broad, internationally recognized norms and standards that are fundamental to the notion of the rule of law.

3. Developing countries need support for capacity building - for building institutions that are effective, responsive, transparent and accountable.

Organized crime, money laundering, human trafficking, narcotics trade, cybercrime – these are extremely complex problems. International cooperation is needed to fight them, along with an appreciation of the huge capacity gap in many developing countries, especially those in a post-conflict state. The countries most likely to be the target of organized crime are also usually those least able to fight it.

Institution-building takes time, money and effort. But resources are often scarce in the area of justice sector reform. Judicial capacity building is often a poor cousin to security sector reform in peace-building operations. Time can be underestimated in the rush to get quick, visible and measurable results.

4. We must not overlook the social dimensions of crime prevention.

The answer may not lie solely in the courts, but also in other areas such as youth employment. To give you an example of how socially sensitive law enforcement can aid social development, as well as improve crime prevention, IDLO is currently working with law enforcement agencies – a network of police officers - to make them more aware of how they can improve access to medical services for populations at risk of HIV. How the police deal with sex workers or drug addicts can make or break HIV prevention strategies. Turning to another example, we [IDLO] have a project in the Arab region that, in cooperation with UNICEF, is looking at alternatives to detention for juvenile offenders. If the criminal justice sector fails children, it will transfer the problem of the present into the future, possibly in much more serious forms. We [IDLO] also have a major program on tackling gender-based violence in Afghanistan. The criminal justice element is one component of a multi-faceted program. I mention it however because the best indicator that a justice sector is functioning is when the most marginalized members of society are able to access justice and get a remedy”⁴.

⁴ IDLO, *Statement of the International Development Law Organization High-level General Assembly Thematic*

The policies and related activities fostered by Italy for rule of law compliant sustainable solutions matter only to the extent that they make a significant and verifiable difference to the lives of the people across the planet. We are indeed well aware of the huge gulf between the rule of law rhetoric and reality.

All public and private Italian actors share this vision and are committed to this logic in selecting and prioritizing their future work. By focusing on concrete, measureable changes, they can pioneer the transition towards the next phase of the rule of law for sustainability challenge: from respect and compliance to learning and transformational change.

Although key to criminal justice, institutions work best when people are able to hold them accountable. Societies can only do so when they are empowered through transparency, better information, and awareness about laws and legal aid. Civil society is a critical player in making crime prevention and criminal justice work better.

In the final analysis, the rule of law builds confidence in state institutions. There is much hope that the post-2015 agenda will be a transformative one. This will require us to better understand the relationship between crime prevention, rule of law and sustainable development.”.

Of course, LOE takes into particular account the multifaceted value to development expressed by human rights.

As succinctly phrased by the IDLO Director-General: “...*human rights teach us to focus on the human being – on the impact on people’s lives. Not only on how fast the economy is growing, but on whether there are decent jobs for people. Not on whether school buildings have been built, but whether girls have equal access to education as boys. Not on whether agricultural production has gone up only, but on whether people have enough to eat. Human rights expose inequalities and injustices. They are not about the aggregate, but about the individual, about who is being left behind and why. Human rights are an empowering process. By asserting their rights, the poor place themselves at the center of the debate on development and gain the dignity. And finally human rights are an accountability framework. Human rights and the rule of law have a symbiotic relationship: without respect for human rights and the rule of law we will fail to make development work for everyone, we will fail to prioritize those who are being left behind...*”⁵.

A further area where LOE plays a crucial role pertains to climate justice and sustainable land use.

The following considerations help clarify this issue:

“...*Climate change presents an existential threat to the wellbeing of all society, especially the poorest and most marginalized groups. Women, children and indigenous peoples in the world’s poorest countries are significantly affected by changes in land use due to climate change. Weak regulations, institutions and redress measures are foreclosing opportunities for more sustaina-*

Debate on “Integrating crime prevention and criminal justice in the post-2015 development agenda”, February 25, 2015 New York Delivered by Irene Khan, Director-General, IDLO, available at: <http://www.idlo.int/sites/default/files/pdfs/policies/IDLO%20DG%20Statement%20UNODC%20High%20Level%20General%20Assembly%20Thematic%20Debate%205%203%2015%20New%20Template.pdf>.

⁵ IDLO, *Statement to the general assembly high-level event on contributions of human rights and the rule of law in the post-2015 development agenda*, June 10, 2014, New York, Remarks by Irene Khan, Director-General, IDLO, available at: <http://www.idlo.int/news/policy-statements/statement-general-assembly-high-level-event-contributions-human-rights-and-rule-law>

ble landscapes on all levels, leading to inequitable, un-transparent and ultimately, ineffective climate policies. Rule of law responses, guided by global calls for climate justice, offer principled approaches and innovative legal strategies to support climate mitigation, adaptation and finance for sustainable development. In the context of the ongoing negotiations on the Post-2015 development framework, rule of law principles can make an important contribution to climate justice. Specifically:

- Legal certainty, through coherent legal and institutional frameworks, can help to coordinate to ensure coherent regulations, standards and licensing procedures among diverse sectors that affect land use, such as forestry, energy, minerals and agriculture. Conflicting laws and policies can create disincentives for low-carbon initiatives while coherence can deliver many co-benefits;
- Equitable burden and benefit-sharing arrangements, along with strong social and environmental safeguards, can foster rather than frustrate land tenure rights and environmental management so that livelihoods are protected and development brings sustainable benefits for all;
- Transparency, access to information and access to justice, supported by broad stakeholder engagement is crucial to drafting and implementing comprehensive and inclusive laws and policies for climate-compatible development. Processes must be established to ensure that the needs and perspectives of vulnerable and marginalized groups, especially women, children and indigenous peoples, are properly considered.”⁶.

3. Legally oriented environment as an enabler for environmental sustainability and law and justice.

We wish now to focus briefly on the new relationship emerging between the broader themes of “environmental sustainability” and “law and justice” within the context of the 2030 Agenda.

The 2030 Agenda for Sustainable Development brings together a range of environmental sustainability goals previously addressed across several agendas. This represents a shift in the way environmental sustainability is viewed, from a stand-alone issue under the Millennium Development Goals (MDGs) to integrated targets across the Sustainable Development Goals (SDGs). No longer only relevant to environmentalists, environmental sustainability is now understood as critical to a wide spectrum of development issues from reducing poverty, advancing gender rights, and protecting ecosystems to making production and consumption sustainable. “Integration” of environmental and development issues is emerging as a key priority across sectors.

Moreover, recognition is growing across environmental agendas that while much progress has been made in scientific and technical solutions, a missing link has been supporting and scaling-up this progress with clear legal and policy frameworks backed by accountable institutions and empowered people.

Italy is interested in fostering major advances in global agendas on the themes of “environmental sustainability” and “law and justice” through the sharing of legal innovations emer-

⁶ IDLO, *Rule of Law, Climate Justice, and Land Use*, December 9, 2014, available at: <http://www.idlo.int/news/events/roundtable-rule-law-climate-justice-sustainable-land-use>.

ging in the field and framing the design of effective law and justice approaches in order to achieve the environmental sustainability goals of the 2030 Agenda.

Some guiding questions are at the basis of Italian reasoning:

- how can SDG 16 contribute to achieving the environmental sustainability goals under the 2030 Agenda?
- what are elements of a LOE’s approach to achieving environmental sustainability under the SDGs?
- what kind of support and partnerships can catalyze action to use a “LOE” approach to implement environmental sustainability goals under the 2030 Agenda?

Law and justice approaches to environmental sustainability have evolved alongside the deeper understanding of environmental challenges which has emerged in the last decade.

Two trends are noticeable: a) new environmental laws and regulations have often been accompanied by the fear of economic loss and viewed as a deterrent for businesses; b) new regulatory approaches are beginning to recognize the linkages between environment and other societal values.

The outcome of these developments is the current effort to define a new generation of laws recognizing that a “one-size-fits-all” approach to achieving environmental sustainability does not exist. Encouragingly, the several pockets of progress in understanding how law and justice can build environmental sustainability are also relevant.

As underlined by IDLO, recent studies have aimed to bring together thinking on how to build effective legal frameworks and environments to achieve goals on climate change, disaster risk reduction, sustainable trade and investment, and biodiversity⁷. However, the significant drawback was the continued isolation in separate thematic siloes. Italy’s vision of unifying this knowledge holds the potential to define a “law and justice” approach to implement the environmental sustainability goals of the SDGs.

A further set of issues is coherently being examined by Italy:

- what are the most promising law and justice tools that could be put into practice to foster effective actions for environmental sustainability?
- what innovative programming approaches can be taken to test, measure and develop coherent law and justice responses for environmental sustainability?
- how can we develop innovative LOE fora to support continuous peer-to-peer learning and adaptation to support implementation?

The powerful and transformative role of the LOE approach as an enabler is quite significant as far as food and nutrition security are concerned. The reciprocal links on this ground are of increasing importance as evident in the Second International Conference on Nutrition organized jointly by the FAO and WHO in Rome in November 2014 and EXPO Milan 2015’s central theme of “Feeding the Planet, Energy for Life”.

Italy is traditionally engaged in these issues. The Italian Cooperation is a top contributor, for example, of the FAO Multi-Donor Trust Fund Project “Support for Country Level Implemen-

⁷ IDLO, *Framing paper: Connecting the dots across the SDGs: Environment, Justice, and People*, available at: <http://www.idlo.int/sites/default/files/pdfs/events/Biodiversity%20Mainstreaming%20and%20Law%20-%20IDLO%20-%20Framing%20Paper.pdf>. Please note that the Framing Paper was developed in collaboration with the following partners: the Swiss Federal Office for the Environment (FOEN) and SwedBio - program at the Stockholm Resilience Center.

tation of the” to which the Italian Government attaches high priority. Similarly, food nutrition and security was one of the priorities of Italy’s EU Presidency in 2014.

Let us examine more in detail (<http://www.fao.org/docrep/016/i2801e/i2801e.pdf>) how the LOE approach plays a role on such relevant issues.

An enabling legal framework is fundamental to food security and nutrition, sustainable agriculture and land tenure, and sustainable livelihoods for the rural poor.

Good laws can support the four pillars of food security availability, access, stability, and utilization in a comprehensive and inclusive way.

Safeguards embedded in law that seek to uphold responsible investment in agriculture and other land-based sector are crucial to promote equitable social development and environmental sustainability. These safeguards are also important to secure the inclusion of a diverse range of stakeholders, such as small landholders, farmers, women, indigenous and marginalized populations.

The rule of law acknowledges the important development role of all stakeholders, including smallholders and small businesses, and can be instrumental in promoting justice principles in the rural context, such as good governance, transparency, accountability and access to justice.

Engagement in the domain of rule of law must and will increase in response to rapidly changing rural dynamics that are increasingly impacted by external factors such as urbanization. Urbanization has redefined rural transformation and has led to major changes in the rural labor force and to greater competition for land and water in rural areas.

The rule of law is critical for dealing with these challenges by concretely and measurably allowing for the fundamental ability of rural populations to use and benefit from natural resources.

Pro-poor legal frameworks that are relevant, inclusive and evolving can enable the rural poor to deal with future challenges, including in relation to food security, financing land and water use and the discrimination of women.

Unequal power relationships are a key dimension to many of the challenges faced by the rural poor in particular disparities in the ability of women to access markets and resources. There is a real risk that this power imbalance, which is sometimes perpetuated by laws and policies, will worsen the economic and social marginalization of the rural poor and consolidate inequalities. However, with appropriate laws in place, resources can be managed in a way that can enhance social development and also build community resiliency against disaster.

Through the good regulation of the common, the rule of law can be a tool in helping the rural poor to gain access to resources needed for achieving food security. The tragedy of the commons can be appropriately mitigated with good governance provided that laws in place are appropriate for the given context.

Land tenure is a clear intersection between the rule of law and food and nutrition security. Agricultural intensification has taken place in a dynamic way and land tenure issues and patterns have changed with different types of agricultural practices.

In the Philippines, for example, the rule of law has stabilized smallholders’ land and guided the appropriate use of public funds, in addition to putting in place the proper incentives and services to ensure that smallholder land owners are sufficiently protected.

It is important that a one-size-fits-all approach not be applied to land tenure and land titling and that local culture and conditions be taken fully into account.

Appropriate titling and tenure of land regulations are also essential for a country to be able to deal with land issues arising after a natural disaster.

The rule of law at the national and international level plays an important role in regulating the relationship between natural resources and conflict – a major barrier to food and nutrition

security. The international legal framework in place to regulate this relationship is becoming increasingly important and gives rise to many remedies available in both times of war and times of peace⁸.

The link between the environment and conflict was recognized, among others, in the report of the Secretary-General’s High Level Panel on the Post-2015 Development Agenda, which noted that natural resource misuse is both a driver and an indicator of long-term conflict. The rule of law can play, indeed, a key role in ensuring the equitable use and beneficial sharing of natural resources to help avoid resource related conflicts.

4. Further areas of application: the digital divide.

Another issue where LOE is called to provide ad hoc indications is tied to the so-called digital divide.

We refer to how free, timely and online access to legal information can become a strong and transformative enabler to accelerate advances in the implementation of the post-2015 development agenda and help create a conducive environment for the achievement of the SDGs.

This issue has been explored in the side event (New York, June 24, 2015), “Providing Access to Legal Information to Accelerate Sustainable Development”, jointly organized by UNDESA, Italian Mission, Inter-Parliamentary Union and IDLO.

Some essential concepts deserve to be stressed:

“A broad-based and shared knowledge of policies and norms throughout society is essential to sustainable development. Yet, despite two decades of Internet and digital growth and initiatives to increase access to public data, free online access to legal information and the subsequent benefits have yet to be fully realized by governments anywhere in the world.

In the context of the post-2015 agenda, making legal information freely available to all via the Internet, on a timely basis, will be particularly significant as it can help address simultaneously many development goals with a major impact at the national and international levels.

Access to legal information, including primary and secondary legal sources – such as laws, statutes, regulations, case law, treaties, etc. – can encourage trade and foreign investment, foster private sector growth, help mobilize domestic resources, promote a predictable business climate, and deter bribery and corruption.

Legal empowerment through free access to the law can help fight discrimination and safeguard the rights of women, minorities, migrants and persons with disabilities; support the implementation of productive employment and social protection measures; and enhance the spreading of education.

The availability of legal information can also become a powerful instrument to promote and support changes in unsustainable patterns of consumption and to defend the health of individuals and their environment.

By providing free access to legal information, government authorities can also strengthen institutional transparency, engage a larger audience of stakeholders, and make many more people aware, at all levels, of both the laws that protect them and the laws that regulate behavior.

⁸ IDLO, *Achieving a Transformative Post-2015 Development Agenda: The Contribution of the Rule of Law to Equity and Sustainability*, July 21, 2014, Rome, Italy, available at: <http://www.idlo.int/sites/default/files/Conference%20Report.pdf>.

Despite these benefits, there have been only sporadic and fragmented attempts by the international community to support capacity-building efforts to establish systems for citizen access to legal information or even simple thematic databases of current laws”⁹.

5. Taking into account informal justice systems.

A theme not to be overlooked is the relationship between LOE and informal justice.

Endeavors to resolve disputes through informal means have probably existed forever.

They were certainly around well before the modern formal justice systems evolved.

As underlined by IDLO, these informal mechanisms are so

“deeply entrenched in some parts of the world that they continue to play a significant part in people’s lives, dealing with everything from property disputes, to marriage and divorce, to inheritance.

In fact, more than 80 percent of disputes may be resolved through these means in some developing nations. Often, this is simply because customary justice systems are easily accessible and affordable when compared to the distances and costs related to formal justice systems. And in times of disaster or conflict, when the formal justice system is not operational, there may be no other option.

Informal justice systems frequently depend on mediation, reconciliation and consensus. Still, engagement with them is sometimes frowned upon, as they tend to promote patriarchal interpretations of culture and conflict with internationally accepted conventions on rights issues. They could, for instance, impose punishments regarded as inhumane or discriminatory. But given their extensive usage, there is a growing realization of the need to not only engage with them, but to create links between them and the formal justice system.

Doing so could help improve accountability. It could also encourage community leaders to adopt mechanisms that are consistent with international standards”¹⁰.

We believe that the LOE’s strength is also rooted in the beliefs, perceptions and opinions held by the population and the stakeholders (Government, private sector, civil society). Hence the high values surrounding the LOE have to be disseminated to gain appreciation and respect. Of course, legitimacy (legal, social, cultural and both formal and informal), credibility (the compliance with any and all commitments made to the community) and trust are to be earned and then maintained through the intrinsic qualities of the legally oriented environment for sustainable economic development.

However, the LOE is even stronger when it succeeds in incorporating the collective identity of a nation. That is, when the citizens consider themselves to be co-owners and emotionally invested in a national legally oriented environment for sustainable development.

It is crucial not to confuse acceptance with approval; cooperation with trust; technical and juridical credibility with social and cultural credibility.

Summing up, building a LOE involves also building social capital through the processes of “community building”, “capacity building” and “institutional” strengthening.

⁹ Available at: <http://www.idlo.int/sites/default/files/pdfs/events/Concept%20Note%20and%20Agenda%20Side%20Event%20Access%20to%20Legal%20Information.pdf>

¹⁰ IDLO, *Informal Justice*, available at: <http://www.idlo.int/what-we-do/rule-law/informal-justice>.

6. Conclusions and the way forward.

Let us be clear. Introducing and disseminating new values at the community and organizational levels is an essential aggregator both for capacity building and institutional building.

This is not always easy, but it is an essential part of sustainable human development.

Spreading common values is crucial to prevent the tendency of decision makers uniting around a policy without questioning basic assumptions. The latter are always correlated to value dimensions which are necessary to build and maintain fellowship, leadership and institutional capacities.

Building capacity may not be glamorous or provide a quick answer, but it ultimately offers the proven path to successful long-term development.

Thanks to well-targeted and selected values dissemination strategies, reaching goals become easier and communities are motivated to try larger projects.

By adequate interventions on values dissemination, communities or organizations able to build capacity and institutions may not live in “a perfect world” or “happily ever after”, but they will survive, develop, and thrive.

Bearing in mind that having a law in place will not necessarily ensure that sustainable economic growth occurs, we deem it necessary to state a clear caveat.

Italy believes that, notwithstanding possible differing positions on conceptual issues, the LOE strategy should deepen consensus by focusing on concrete issues of implementation, effectiveness and measurement of impact rather than on terminology and concept.

Moreover, the LOE approach is a global imperative of equal relevance to developed and developing countries and equally applicable to all.

Sixteenth century philosopher Thomas Hobbes in his seminal work “Leviathan”, posited that without the rule of law the existence of human beings would be “*nasty, brutish and short*”. The LOE strategy is conceived by Italy as the 21st century answer to prevent such utterly negative human conditions. There is no alternative between having a goal per se on the rule of law or having it as a cross-cutting issue: both are relevant for the implementation of the post-2015 Agenda. The LOE approach is not just rules that those people with good lawyers and good money enforce by way of the courts. It is a way of life for societies and it is essential for sustainable development.

A further issue warranting debate is trust (<https://www.abo.fi/fakultet/media/23741/uslaner.pdf>). The assessment, generation and long term maintenance of trust, are the concern of every individual involved in any interaction.

“The concept ‘trust’ can be classified into two major groups: Generalized Trust and Particularized Trust. Generalized Trust means: generalized trust in people; trust in the legal framework (judiciary, police); trust in the State institutions (government, parliament, political parties, civil service); trust in the civil society; trust between anonymous economic actors. Particularized Trust means: trust in family, friends and kin; trust (of an entrepreneur) towards a national bureaucrat to be an ‘honest bribe’”.

“From the entrepreneurship perspective, whether an entrepreneur gets involved in corrupt activities or whether he perceives the level of corruption as high or low is a matter of his subjective perception of the legal framework, within which two aspects can be distinguished: protection of the property rights and contract enforcement. By planning a corrupt transaction, an entrepreneur takes into consideration the anticipated costs of sanctioning. And if an entrepreneur expects the legal restrictions (the costs of punishment and the likelihood of being punished) to be imposed on him from the court to be very low, he will be more likely to engage in corrupt transactions”.

“Corruption rests upon a foundation of low generalized trust and high in-group trust. The higher the level of trust, the lower the level of corruption...Low trust and corruption form part of a syndrome of ‘bad social capital’ that threatens the global economy. Corruption raises the cost of doing business and makes firms less willing to invest in countries with high levels of dishonesty. Low trust and high corruption have common sources--and negative consequences for economic growth”.

“What we see today is that trust and the law have become partners, rather than rivals. Countries with strong and fair legal systems are countries with high degrees of generalized trust. However, there is no direct linkage from any measure of legal quality, property rights, or contract enforcement to generalized trust. You cannot create trust through the strong arm of the law. But trusting societies have stronger legal systems”.

As stated by Bo Rothstein and Eric M. Uslaner, there is a variable that has not gotten the attention it deserves in the discussion about the sources of generalized trust, namely, equality. They conceptualize equality along two dimensions having a high relevance for LOE: economic equality and equality of opportunity. Rothstein and Uslaner stress, in particular, two points:

- first, it is obvious that the countries that score highest on social trust also rank highest on economic equality, namely, the Nordic countries, the Netherlands, and Canada;
- second, these countries have put a lot of effort in creating equality of opportunity, not least in regard to their policies for public education, health care, labor market opportunities, and (more recently) gender equality.

The argument for increasing social trust by reducing inequality has largely been ignored in the policy debates about social trust.

The policy implication that follows is that the low levels of trust and social capital that plague many countries are caused by too little government action to reduce inequality or stated differently, too little engagement to foster a LOE approach.

However, many countries with low levels of social trust and social capital may be stuck in what is known as a social trap. Social trust will not increase because massive social inequality prevails, but the public policies that could remedy this situation cannot be established precisely because there is a genuine lack of trust.

This lack of trust concerns both “other people” and the government institutions that are needed to implement universal policies.

Italy’s historical experience and international expertise leave the country well-placed to continue to take the lead on tying together the disparate and equally important efforts to promote and protect human rights. The legally oriented environment framework builds on the rule of law concept to improve the public’s lives and livelihoods through its application to nearly all spheres of society for the overall greater good.

Ugo Colombo Sacco di Albiano – Diplomat, Deputy Principal Director for Global Issues and G7/G8/G20 Processes, Directorate General for Global Affairs, Italian Ministry of Foreign Affairs and International Cooperation

Giovanni Tartaglia Polcini – Magistrate, Legal Adviser at the Italian Ministry of Foreign Affairs and International Cooperation

Ugo Colombo Sacco di Albiano and Giovanni Tartaglia Polcini contributed to this article in their personal capacities. **The views expressed are their own and do not necessarily represent the views of the Italian Ministry of Foreign Affairs and International Cooperation.**