

The inner crisis of our civilization must be resolved if the outer crisis is to be effectively met.  
– Lewis Mumford

# Voluntary Simplicity and the Social Reconstruction of Law: Degrowth from the Grassroots Up

Samuel Alexander

## 1. INTRODUCTION

Degrowth scholars and other growth skeptics have done a considerable amount of important work exposing the many defects inherent to the dominant macroeconomics of growth (Kallis, 2011; Latouche 2009; Jackson 2009; Victor 2008; Daly 1996). In recent years a growing body of literature has also emerged exploring what structural changes could be undertaken to facilitate the emergence of a degrowth or steady-state economy (Alexander 2011a, Jackson 2009; Hamilton 2003). Very little has been written, however, on what role social or cultural evolution may need to play in providing the necessary *preconditions* for such structural change. The neglect of this issue is problematic for two main reasons. First, it seems highly unlikely that a degrowth or steady-state economy will ever arise voluntarily within cultures generally comprised of individuals seeking ever-higher levels of income and consumption (Hamilton and Denniss, 2005). Accordingly, before growth economics can be overcome, this significant cultural obstacle must be acknowledged, confronted, and somehow transcended. Secondly, even if notions of degrowth or steady-state economics were to gain widespread acceptance within a culture, it seems highly unlikely that a degrowth or steady-state economy would arise voluntarily unless people had some idea of what needed to be done at the personal and community levels to bring about such an economy (Trainer, 2010; Hopkins, 2008). In other words, it is not enough merely to offer a critique of existing *structures* of growth; it is equally important to explore the question of *how one ought to live* in opposition to those structures. This paper engages some aspects of these complex issues by looking into what role social movements may have to play in creating the preconditions needed for a degrowth or steady-state economy to materialize. More specifically, this paper examines the potential of the Voluntary Simplicity Movement to socially reconstruct law to that end.

### 1.1. *Statement of Argument and Theoretical Framework*

The Voluntary Simplicity Movement (hereafter, the ‘Simplicity Movement’) can be understood broadly as a diverse social movement made up of people who are resisting high

consumption lifestyles and who are seeking, in various ways, a lower consumption but higher quality of life alternative (Alexander, 2011b; Alexander 2009, Grigsby, 2004). Participants in this movement generally seek to ‘downshift’ the level and impacts of their material consumption, while at the same time aiming to create for themselves an alternative conception of ‘the good life’ in opposition to the Western-style consumerist ideal. The central argument of this paper is that the Simplicity Movement (or something like it) will almost certainly need to expand, organize, radicalize, and politicize, if anything resembling a degrowth or steady-state economy is to emerge in law through democratic processes. In a sentence, that is the ‘grassroots’ or ‘bottom up’ theory of structural transformation that will be expounded and defended in this paper. The essential reasoning here is that legal, political, and economic structures will never reflect a post-growth ethics of macro-economic sufficiency until a post-consumerist ethics of micro-economic sufficiency is embraced and mainstreamed at the cultural level. Conversely, a microeconomics of ‘more’ will always generate, or try to generate, a macroeconomics of ‘growth’.

The background theoretical framework within which this paper is situated is that of ‘social constructionism,’ a position, or variety of positions, which holds that the meaning of concepts, including legal concepts, is the product of evolving social practices and values rather than a reflection of an unchanging, objective reality.<sup>1</sup> While there are highly abstract philosophical issues surrounding social constructionism (Fish, 1989; Rorty, 1979), the analysis of this paper begins by questioning how and why, as a practical matter, socially constructed legal concepts acquire meaning, and how and why those meanings change. In examining these issues the analysis looks to the emerging scholarship surrounding law and social movements (McCann, 2006a). In various ways this socio-legal literature explores how social movements in any given society have impacted or could impact on the legal system to bring about structural change. Drawing on that literature and developing it, the preliminary argument of this paper is that law can be understood, to a large extent, as a reflection of social values and assumptions, such that social or cultural evolution tends to induce legal evolution. (I will use the terms ‘social’ and ‘cultural’ interchangeably in this paper to refer broadly to the aggregation of personal values, behaviors, and relationships in a society.) In more theoretical

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<sup>1</sup> The claim that the meaning of concepts is the product of social practices and values implies that concepts acquire meaning from the ways in which they are *used* in language, which is another way of stating that the meaning of concepts is a contingent product of linguistic convention, not conceptual or semantic necessity. See Ludwig Wittgenstein, *Philosophical Investigations* (1953) 20 [43] (‘The meaning of a word is its use in language.’). For a classic statement of social constructionism, see Peter Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (1966). One of most persuasive advocates of social constructionism in legal scholarship is Stanley Fish. See especially, Stanley Fish, *Doing What Comes Naturally: Change, Rhetoric, and the Practice of Theory in Literary and Legal Studies* (1989). See also, Larry Barnett, *Legal Construct, Social Concept: A Macrosociological Perspective on Law* (1993) (arguing that legal systems are social constructs, primarily shaped by social practices and values).

terms, the basic argument is that if legal concepts are ‘social constructs,’ then social movements can be understood as a mechanism through which legal concepts are socially constructed and reconstructed. As critical jurist Roberto Unger (2001) has argued, any transformative politics of law needs to be complemented, if it is to succeed, by a cultural revolution in personal and social relations. This conclusion, so far as it is true, suggests that legal, political, and economic reformers – including, or especially, radical reformers – should carefully consider not only what cultural conditions would best facilitate the realization of their transformative programs, but also what role social or cultural movements might have to play in producing those conditions.

## 2. LAW AND SOCIAL MOVEMENTS

‘This abstraction called Law,’ Justice Oliver Wendell Holmes, Jr., once observed, ‘is a magic mirror, [wherein] we see reflected, not only our own lives, but the lives of all men that have been!’ (Holmes, 1891: 17). Building upon this insight, celebrated legal historian, Kermit Hall, developed a conception of law as a ‘magic mirror,’ that is, as a reflection of culture which offers historians an opportunity to explore the social choices and moral imperatives of previous generations (Hall, 2009). Consistent with social constructionist theory, though without being framed in such terms, Hall (2009: 2) argued that law ‘is indeed a cultural artefact, a moral deposit of society. Because its life stretches beyond that of a single individual, its meaning reaches the values of society.’ Although Hall correctly acknowledged that law both affects and is affected by the social order – indeed, that law can both change and reinforce the social order – his theory of law is characterized predominately by how it describes ‘the rapidity with which changes in the general culture penetrated the legal system’ (Hall, 2009: 341). Meticulously researched and robustly argued, Hall’s primary conclusion is that a legal system ‘is more like a river than a rock, more the product of social and cultural change than the molder of social development’ (2009: 383). This paper builds upon Hall’s thesis that law is more the product of social and cultural change than the reverse.

It should be acknowledged from the outset, however, that ‘law reflects culture’ is a contestable and, in many ways, overly simplistic proposition, especially when stated so bluntly. Law, rather than being shaped by culture in a unidirectional way, sometimes takes the *lead* in social development and is influenced by forces *other* than cultural values (Sarat, 2004). Nevertheless, for reasons to be explained, lawmakers (whether judges or politicians) have little option but to respond to significant changes in cultural values, and on that basis it will be argued that cultural forces (including social movements), while not the exclusive source of law, are indeed one of its primary sources (Rosen, 2006).

Hall's conception of law and legal history is of interest not so much for its historical component but for what it implies about law today and in the future. If Hall is correct that the substance and structure of legal systems have changed over time 'reflecting the values and assumptions of past generations' (2009: 379), it would seem to follow that the future of law depends upon the values and assumptions of present and future generations. Within this framework, today's growth-based economies can be understood as a reflection of the dominant values and assumptions of today's consumerist culture (Schor, 2000). That is, if most individuals in advanced capitalist societies want 'more' than, naturally, those legal systems will tend to be structured to 'grow' (Alexander, 2011a). Hall's theory implies, however, that if those cultural values and assumptions were to change, this would likely induce changes to law. Put otherwise, the idea is that changes in cultural values will tend to precipitate the emergence of new laws and the application of existing laws in new ways to new contexts. This is because social movements are part of what creates social meaning, and socially constructed understandings of the world inevitably become reflected in the technical construction and application of law's commands (Torres, 2009).

This close relationship between law and culture is why I maintain that the Simplicity Movement will need to enter the cultural mainstream and radicalize to some significant extent if there is to be any hope of a degrowth or steady-state economy being realized (or reflected) in law. In other words, the legal structure of a 'macroeconomics of sufficiency' depends for its realization upon the cultural embrace of a 'microeconomics of sufficiency.' Accordingly, I put forward the Simplicity Movement as a social movement of fundamental importance to the related projects of degrowth and steady state economics. For reasons to be canvassed below, however, the Simplicity Movement does not fit neatly into the existing literature on law and social movements and, therefore, in many ways it needs to be considered in its own light.

### *2.1. What is a Social Movement? Sketching the Boundaries of an Idea*

Before going any further it is worth clarifying the term 'social movement,' which scholars have defined in various, often overlapping, ways. An exact definition is not necessary for present purposes, but some clarification is needed for the discussion to proceed. Sidney Tarrow's oft-cited definition holds that social movements are 'groups possessing a purposive organization, whose leaders identify their goals with the preferences of an unmobilized constituency which they attempt to mobilize in direct action in relation to a target of influence in the political system' (Tarrow, 1983: 7). Charles Tilly, a political scientist, adds to this understanding, proposing that a social movement is a sustained series of interactions between power-holders and persons speaking on behalf of a constituency that lacks formal representation, 'in the course of which those persons make publicly visible demands for

changes in the distribution or exercise of power, and back those demands with public demonstrations of support' (Tilly, 1984: 306). More recently, another helpful definition has been provided by socio-legal theorist, Cary Coglianese (2001: 85), who writes:

A social movement is a broad set of sustained organizational efforts to change the structure of society or the distribution of society's resources. Within social movements, law reformers typically view law as a resource or strategy to achieve desired social change. Since social change is the purpose of a social movement, law reform generally is taken to provide a means of realizing that goal.

Finally, for present purposes, there is the further clarification provided by Michael McCann, who states that 'social movements aim for a broader scope of social and political transformation than do more conventional political activities. While social movements may press for tangible, short-term goals within the existing structure of relations, they are animated by more radical aspirational visions of a different, better society' (McCann, 2006a: xiv). McCann (1998) also claims that social movements tend to develop through four broad phases, namely: (1) initial group identity formation, consciousness raising, and movement organizing; (2) early battles to win recognition by dominant groups or to get on the public agenda; (3) struggles of policy development and implementation; (4) eventual movement decline, transformation, 'hibernation,' or rebirth. It is suggested that the development of the Simplicity Movement is at most in transition between phases (1) and (2), although a recent and extensive multi-national study has shown that there are signs of a heightened political sensibility and 'group consciousness' developing within the movement (Alexander and Ussher, 2011).

## *2.2. Social Movements and the Mobilization of Law*

Social movements often employ a wide range of tactics to advance their causes, including public education, media campaigns, and social networking, as well as disruptive 'symbolic' tactics which are intended to halt or upset social practices, such as protests, marches, strikes, and the like (McCann, 2006a: xiv). As the definitions above outlined, however, more developed social movements generally seek to make an impact not only in the social sphere but also a structural impact in the political and legal spheres, and such structural impact depends in a large part on being able to mobilize law for the movement's causes. As McCann notes, 'law provides resources by which social groups and individuals initiate and sustain conflict over basic social values, arrangements and relationships' (McCann, 2006a: xix), such that 'legal mobilization politics typically involves reconstructing legal dimensions of

inherited social relations' (McCann, 2004: 510). This is not always (or ever) a unidirectional process, however, but a dialectical one, in the sense that social movements affect law while law can also affect social movements. On this point Susan Coutin has argued that social movements 'shape (or attempt to shape) the path of law, even as such pathmaking can redefine social reality in ways that, in turn, redefine causes and reshape activism' (Coutin, 2001: 101).

It is also important to recognize that law and legal institutions can cut both ways, serving as resources both to challenge the existing order and to fortify the status quo against challenges (McCann, 2006a: xx). Law has long been recognized as having a legitimizing or mystifying effect on the existing order (Marx, 1983; Balkin, 2008), coloring it at times with what Roberto Unger (2001) aptly terms 'false necessity.' Just as clearly, though, legal history is replete with examples of social movements having successfully used law as a tool to generate genuinely revolutionary reform – at times, even, over a relatively short timeframe. Joel Handler, in his pioneering text, *Social Movements and the Legal System: A Theory of Law Reform and Social Change*, discusses the social movements associated with environmentalism, consumer protection, civil rights, and social welfare (Handler, 1978). All these areas featured social movements that included, as a central aspect of their program, the creation of new laws or the reform of existing ones. The U.S. Civil Rights movement, in particular, provides one of the clearest and most striking case studies on this subject, since it had both judicial effects (e.g. *Brown v Board of Education*) and legislative effects (e.g. Civil Rights Act 1964) of arguably unprecedented proportions. It is all the more striking since the massive legal restructuring generated by this particular social movement was ignited by seemingly inconsequential acts in the social sphere, such as when Rosa Parks refused to give up her seat on the bus.<sup>2</sup>

Participants in social movements are correct to perceive the judicial process as one of the main mechanisms for legal reform. As Justice Sackville of the Australian Federal Court puts it, 'Courts, like all institutions of government, have no option but to respond to social change.... Changes in community values... quickly permeate legal doctrine' (Sackville, 2005: 375). Indirectly, social movements can affect how judges decide cases simply through the fact that social movements are a part of what constitutes and shapes culture, and judges themselves are inevitably shaped and influenced by the culture in which they adjudicate. Put otherwise, even if law is not directly mobilized by a social movement, arguments that may have been persuasive in court in the past (e.g. arguments based on race, gender, or sexual

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<sup>2</sup> Of course, one must be wary of exaggerating the significance of the role Rosa Parks, as an individual, played in the Civil Rights Movement; but the point remains that it was an act of opposition in the social sphere – an example of innumerable acts, really – that helped spark the Civil Rights revolution in legal relations. It is also worth acknowledging the role that cases such as *Brown* played as a catalyst for social changes which, in turn, led to further legal changes.

orientation, etc.) may not be so persuasive today as a result of social movements impacting on culture, including legal culture. In this way, as Edwin Rubin argues, ‘the social sphere is... an important source of law’ (Rubin, 2001: 11).

In a more direct fashion, however, social movements can influence law and the judicial process by proactively initiating legal proceedings themselves and forcing the judiciary to reconsider or take a stand on issues that may otherwise have been left sleeping. As Justice Sackville, again, notes, ‘social change generates new legal issues requiring resolution by the courts’ (Sackville, 2005: 375). This more direct mode of influence has been the primary interest of current literature on law and social movements, which has focused on the role activist attorneys or ‘cause lawyers’ play in furthering the interests of social movements (Sarat and Scheingold, 2006). Since law is notoriously comprised of indeterminate concepts and often contradictory principles (Singer, 1988), cause lawyers acting in the name of social movements can initiate judicial proceedings to challenge existing interpretations of legal principles or concepts in order to redefine entitlements and formulate new aspirations for collective living. As McCann states, ‘inherited legal symbols and discourses provide relatively malleable resources that are routinely reconstructed as citizens consciously seek to advance their interests in everyday life’ (McCann, 2006a: 6). At the same time, McCann acknowledges that ‘this indeterminacy or plasticity of legal conventions is limited’ (McCann, 2006a: xviii). Another social movement scholar agrees, arguing that legal cultures ‘provide symbols which can be manipulated by their members for strategic goals, but they also establish constraints on that manipulation’ (Merry, 1985: 60). Despite the very real limitations and constraints, however, it is a matter of historical fact that ‘law can serve as a useful site for articulating and advancing alternative visions of the good’ (Sarat and Scheingold, 2006: 9).

As well as mobilizing the judicial process, social movements can also seek to mobilize the legislative process to advance their alternative visions of the good (Hutton and Connors, 1999; Dalton, 1994). The reasoning here, as outlined by Kristian Ekeli, is quite simple: ‘Political parties will in many cases have a strong incentive not to take a position that deviates too much from the preferences of their voters, in order not to be punished during the elections’ (Ekeli, 2005: 431). It follows that if those social preferences change and/or their advocates become more vocal and influential, the prospect of mobilizing the legislature increases, since politicians will have an incentive to reconsider the priorities of their constituencies and act accordingly, or else risk losing office. In this way, as other scholars have correctly noted, ‘[t]he law’s power depends on the values, beliefs, and behaviour of individuals’ (Marshall and Barkley, 2003: 622). Since social movements are made up of innumerable, seemingly insignificant acts of individuals, those individual acts can be understood to socially construct law on account of their cumulative politico-judicial influence. Marshall and Barkley maintain that ‘by enacting legality in daily life, ordinary

people give flesh and meaning to what is otherwise an “abstract but binding form.” Those everyday enactments, in turn, create the possibility for change – in law, in institutions, in social life’ (Marshall and Barkley, 2001: 618, footnotes omitted). This expands conventional ideas about where the authoritative commands we call ‘law’ originate (Torres, 2009). What this expanded perspective suggests is that social movements and other cultural forces play a larger role in the construction of law than is acknowledged by those who conceive of law merely as a politico-judicial construction promulgated from ‘the top down.’ To understand the process of law reform, therefore – and to be able to develop effective strategies for law reform – attention must be paid to the influential (but often unnoticed) forces that shape law from the ‘bottom up.’

Consistent with Hall’s thesis that legal history is a ‘magic mirror’ which reflects cultural history, Edward Rubin has argued that much of legal history ‘can be described as the product of social movements, and this perspective might provide new insights into otherwise familiar events’ (Rubin, 2001: 64). While no socio-legal theorists suggest that social movements are the *only* forces that shape law, Rubin and others are surely correct to insist that their powerful influence and impact cannot be denied. It should be noted, however, that this perspective is not new. As far back as 1926, John Franklin Jameson published *The American Revolution as a Social Movement*, in which he depicted the Revolution (and its legal ramifications) first and foremost as a *social* uprising. What Jameson, Rubin, Hall, Coglianese, and other theorists suggest is that ‘changes in society’s values and public opinion can feed back into the legal system and affect the prospects for law reform and enhance the effective implementation of legislation.’ (Coglianese, 2001: 86). Not only that, ‘law reform efforts themselves may have an impact on public opinion, with action by courts and other legal institutions sometimes lending legitimacy to the claims advanced by social movements’ (Coglianese, 2001: 86). The legal system, therefore, can be used both to enlarge opportunities for grass-roots collective action and to consolidate any achievements. In these ways law reform efforts by social movements can function both as a club and a catalyst for structural transformation.

### *2.3. The Uniqueness of the Voluntary Simplicity Movement and its Implications for Legal Reform*

It was noted earlier that the Simplicity Movement does not fit neatly into the conceptual frameworks commonly used for thinking about law and social movements. One reason for this is that social movements tend to be conceptualized (often with every justification) as subordinate or excluded groups in society seeking increased empowerment, recognition, and respect through social struggle. Obvious examples, particularly in the U.S., are the Civil Rights, Women’s Rights, and Gay Rights movements. The Simplicity Movement, however,



cannot be placed coherently into this category, since the very act of voluntarily reducing consumption and production generally implies a certain position of privilege and material security in society, which subordinate or excluded groups typically (though not necessarily) lack. As David Shi remarks, 'By its very nature... voluntary simplicity has been and remains an ethic professed and practiced by those free to choose their standard of living' (Shi, 2007: 7).

It is not clear, however, exactly what implications this may have for any law reform efforts arising out of the Simplicity Movement. One negative implication might be a relatively diminished sense of social solidarity within the Simplicity Movement, at least in the sense that participants may not be driven together by a deep and immediate sense of personal or social injustice which historically gave intense motivational fire to other movements, such as Civil Rights, Women's Rights, and Gay Rights (Capeheart and Milovanovic, 2007). Indeed, one criticism leveled at the Simplicity Movement has been its tendency, historically, at least, to be apolitical (Alexander 2011b). Perhaps a lack of passionate solidarity among participants explains this. It would be wrong to jump to conclusions here, however. After all, the Environmental Movement does not fit obviously into the category of subordinate/excluded groups – many of its participants are well educated and middle-class (even if the environmental 'cause' itself remains subordinate) – and yet environmental activists are notoriously as passionate, driven, and committed as any (Manes, 1990). In fact, the environmentalist sensibility within the Simplicity Movement may provide it with all the motivational intensity it needs, since the various ecological crises are arguably the greatest challenges humanity has ever faced (Hansen, 2011; Heinberg and Lerch, 2010). Looking at the uniqueness of the Simplicity Movement from a very different and more positive perspective, however, the fact that the movement arises out of relatively privileged socio-economic circumstances may actually prove to be to its advantage, in that there may be fewer hurdles to overcome should it seek to access or influence legal and political processes for the purposes of structural reform.

These points suggest that the social movement which most closely resembles the Simplicity Movement, and which might shed some light on it, is the Environmental Movement (McCormick, 1989). The Environmental Movement has contributed to considerable changes in law and social values over the last few decades, as Coglianese (2001: 109) writes: 'Legal reform, if it is to have an enduring impact, needs to be accompanied by a genuine change in public values. Broad public support for the environment has helped to sustain the nation's basic institutional commitment to the environment as reflected in contemporary law.' Furthermore, he adds, '[j]ust as the legal system helps sustain environmentalism during periods of public inattention, the system of environmental law is itself sustained by a broad social consensus in favour of environmental protection and by a

latent environmentalism that stands ready to be activated by environmental groups' (Coglianese, 2001: 116). He sums up his central conclusion neatly in the following passage:

[L]aw reform is not simply a tool for changing society; rather, law reform is itself affected by society and its nonlegal norms and values. To be successful, social movement reformers need not only seek changes in the law but changes in public values too. In the absence of direct changes to society's values, law reform efforts could prove at worst vacuous or at best vulnerable to counterattack or atrophy over time (Coglianese, 2001: 116).

In the context of this paper, the significance of this conclusion lies in how it exposes the need for law reformers to pay attention to social values as a necessary part of law reform efforts. Social movements clearly need law reform to help achieve their goals of social change, but 'law reform itself needs a supportive social and political climate if it is to maintain its viability and effectiveness over time' (Coglianese, 2001: 116). This point draws attention to the 'reactive' rather than 'proactive' nature of liberal democracies, as the following passage explains (also in the context of the Environmental Movement): 'Political parties are just a reflection of their society... Political parties will only behave in a more environmental fashion from the moment that the average citizen will do so and not in the reverse order' (De Geus, 2003: 25, quoting Dick Tommel). This is no doubt the kind of reasoning which led Robyn Ekersley (1992: 17) to assert that 'the environmental problematic is a crisis of culture and character.' More generally, the various problems of growth economics could be characterized in much the same way, suggesting that the cause of and the solution to those problems may lie primarily – at least, initially – in the social sphere. This is not to deny, of course, the necessary role law will need to play in any transformative politics; it is only to propose that progressive reform in the legal, political, and macroeconomic spheres will depend, ultimately, on a social sphere that deems such reform necessary and legitimate.

A second factor that distinguishes the Simplicity Movement from most literature on law and social movements is that it does not imply – at least, not obviously – a political agenda. It may be obvious that it *needs* a political agenda, but even if that is so it is much less obvious what such an agenda would look like. Contrast this with other movements. The politics of the early Women's Rights movement, for example, obviously called for such structural changes as the right to vote; the Civil Rights movement obviously called for desegregation, among other things; the Gay Rights movement obviously called for the decriminalization of homosexuality, etc (Rodrigues and Loenen, 1999). Although it can be argued that deeper and less apparent structural biases did and still do discriminate unjustly against these groups, the present point is that as those groups were forming into social movements there were at least

some political changes to focus on that were quite clearly implied from the outset by the nature of the movements themselves.

As noted above, however, it is not immediately obvious what transformative politics is implied by the Simplicity Movement. I would suggest that this is primarily due to the highly problematic nature of one of the Simplicity Movement's defining concerns, namely, reducing and changing consumption habits in affluent societies (Segal, 1999). As Albert Lin notes, '[t]ackling the problems posed by consumption quickly entangles one in questions of lifestyle choices and equity' (Lin, 2008: 476). According to liberal theory and neoclassical economics, consumption is generally conceived of as a matter of 'private preference,' an area of life in which individuals make their own decisions in the marketplace free from politico-judicial mandates. As Tim Jackson (2003: 64) observes:

There has been a tendency in conventional policy to assume that government should play as little role as possible in regulating or intervening in consumer choice. The doctrine of consumer sovereignty has dominated both economics and politics for several decades.

From that liberal / economic perspective, reducing or changing consumption habits may or may not be a requirement of morality or ethics, but it is certainly not an area that should be governed by law. In other words, the mainstream liberal / economic position is that lawmakers should not seek to shape or govern private preferences as expressed in the market; rather, lawmakers should be neutral in regard to consumption by taking private preferences as 'given.' That conception of market consumption may well need to be rethought if there is ever to be a politics of voluntary simplicity, a politics of consumption.

Fortunately, some of the background analysis on this point has been canvassed elsewhere, by theorists who have argued at length that law (including property and market structures) cannot be neutral, as such, but are always and necessarily value-laden (Singer, 2000; Robertson, 1997). On that basis I would argue that the prospect of a politics of voluntary simplicity should not be dismissed in advance simply on the grounds that it would be non-neutral with respect to its effects on consumption habits (since every legal regime is non-neutral). But even if that theoretical point is accepted, that does not say anything about what concrete politics of consumption is actually implied by the Simplicity Movement. Once again, this lack of clarity distinguishes the Simplicity Movement from those other social movements which seemed to have at least a preliminary political agenda implicit in their very natures. For these reasons I contend that the Simplicity Movement should dedicate much more attention to formulating a coherent political agenda, partly as a means of fostering increased 'group consciousness' and partly as a means of amplifying the movement's political sensibility. That task of formulating a politics of voluntary simplicity is explicitly taken up elsewhere

(Alexander, 2011a), where the legal reformation of private property / market systems is explored with the aim outlining a transition by way of degrowth to steady-state economy. That vast subject cannot be explored here, however. In what remains of this paper I present a more detailed statement of the relationship between the Simplicity Movement and a degrowth or steady-state economy, for the central argument being advanced in this paper is that the Simplicity Movement will need to expand and organize at the social level if any such economy is emerge.

### **3. DEGROWTH FROM THE GRASSROOTS UP: THE PROMISE AND POTENTIAL OF THE SIMPLICITY MOVEMENT**

This paper has labored the point that law is a social construct. It has done so in the context of law and social movement literature with the aim of showing how and why changes in a society's culture quite directly lead to changes in law, and in ways that are not always obvious or widely acknowledged. From the premise that 'law reflects culture' it is only a small step further to see that culturally induced changes in law inevitably impact on political and economic structures too, given that those structures have legal foundations, or, at least, are framed and secured by the force of law (Kennedy, 1991; Kennedy, 1984). These issues deserve attention because if the relationship between law and culture is not understood, precious time, energy, and resources can be easily wasted on ineffectual or misguided strategies of reform. The motivating concern of this paper was to draw more attention to what role cultural evolution might need to play in providing the necessary *preconditions* for a degrowth or steady state economy.

Having outlined the socially constructed nature of law and legal reform, the underlying argument of this paper can now be restated: A degrowth or steady-state economy will depend for its realization on the emergence of a post-consumerist culture, one that understands and embraces 'sufficiency' in consumption (Princen, 2005). Put otherwise, no post-growth macroeconomics will ever arise from a growth-based microeconomics. Those who question the soundness of this thesis need only try to imagine a voluntary transition to a degrowth or steady-state economy occurring within a culture generally comprised of individuals who seek ever-higher levels of income and consumption. It is impossible to imagine, I would suggest, because it entails a fundamental contradiction in economic trajectory. Therefore, with respect to the affluent societies, at least, degrowth depends on voluntary simplicity. The analysis above aimed to expose the theoretical foundations of that relationship of dependence by outlining the close but often obscure relationship between law and culture.

This argument, however, must not be misunderstood. The argument is not that personal or grassroots action can 'change the world' without any need for significant structural

transformation – far from it. The pro-growth structures of advanced capitalist societies (Purdey, 2010) make transitioning to a simpler lifestyle of reduced consumption very challenging, and to some extent, in certain ways, almost impossible (Alexander, 2011c). For example, people might find it extremely hard to escape ‘car culture’ at the personal level without safe and accessible bike paths. This is one of countless structural obstacles lying in the path of ‘simpler lifestyles,’ and generally top down reform and investment is needed for such obstacles to be transcended. Personal action alone, therefore, will never be enough.

The limitations of personal action alone, however, are not simply due to current structures opposing lifestyles of voluntary simplicity. It may also be the case that the initial ecological benefits of reduced consumption are quickly eliminated by the ‘sufficiency rebound effect,’ which Blake Alcott (2008: 775) describes as follows: ‘some of what was “saved” through non-consumption is consumed after all – merely by others.’ So far as this rebound effect exists, simple living is unlikely to be an effective response to the ecological problems of overconsumption in the absence of structural change. Accordingly, there is little doubt that structural change by way of legal, political, and economic reform is a *necessary* part of any transition beyond growth capitalism.

The point I am arguing – and it is a point that theorists like Alcott (2008) seemingly fail to appreciate – is that such structural change will almost certainly not eventuate unless it is accompanied and probably preceded by a widespread cultural shift in attitudes toward consumption, such as that being advocated and explored in practice by the Simplicity Movement today. For even if the ‘sufficiency rebound effect’ exists to some extent, this would not mean people should not seek to live simpler lives of reduced consumption. To adopt a lifestyle of voluntary simplicity is to live in opposition to the cultures of consumption that give shape (and are shaped by) the pro-growth structures of advanced capitalism. Only by changing those cultures of consumption, I conclude, is there any hope of transcending and socially reconstructing those pro-growth structures.

Any such process of social reconstruction will need to entail innumerable personal acts of ‘material simplification’ or ‘downshifting,’ acts which might seem insignificant in isolation but which cumulatively have the potential to be of revolutionary import. Those personal acts must become the building blocks of a strong counterculture – a counterculture that votes consistently with its time and money, and which also sends clear messages through the ballot box. Should this grassroots uprising enter the mainstream, including the political mainstream, it will inevitably put increasing amounts of pressure on the structures of growth capitalism (Gibson-Graham, 2006). Over time, I contend, those pro-growth structures will end up so thoroughly disfigured, weakened, dismantled, reshaped, and reconstructed that something very different – something much better, more resilient, and more beautiful – will come to

stand in its place. That, at least, is a future one might dare to hope for when enjoying the respite of an optimistic mood (Alexander, 2011d).

### 3.1. *Globalization, Resistance, and the Problem of 'Empire'*

There is one final point that deserves some comment, even if space does not permit a detailed examination. The age of globalization is upon us, and it could be that any attempt to realize a degrowth or steady-state economy will face forms of resistance today that may not have been faced as recently as fifty years ago. We could call this the problem of 'Empire' (Hardt and Negri, 2000). Not only are nation-states today constrained by numerous international trade agreements and influenced by powerful global institutions, but the free flow of capital around the globe has given new power to transnational corporations which can now move their financial resources from country to country with unprecedented ease (Stiglitz, 2002). A strong case can be made that this has led to economic forces becoming more autonomous from political controls, and consequently that political sovereignty has declined (Sassen, 1996). But as Hardt and Negri (2000: xi) have argued, '*The decline in sovereignty of nation-states... does not mean that sovereignty as such has declined.*' Sovereignty, they argue, has just taken on a new, globalized form – the form of 'Empire' – which can be understood as a decentralizing and deterritorializing apparatus of power which is 'composed of a series of national and supranational organisms united under a single logic of rule' (Hardt and Negri, 2000: xii). The logic of rule to which they refer, of course, is the globalized logic of profit maximization.

Could it be that the materialization of 'Empire' means that it would be impossible for one nation-state to transition to a degrowth or steady-state economy without either violating international trade agreements or inducing, almost instantaneously, the mass exodus of capital? (Victor, 2008: 221-2). Although I cannot respond to the problems of Empire in any detail, I can indicate a response, and it is a response that returns us to the central normative ideas of this paper, namely, voluntary simplicity and the grass-roots theory of legal transformation. If indeed it is so that Empire is slowly but steadily emasculating the nation-state, such that it is becoming progressively less likely that post-growth structural transformation will ever originate from the top down, then it follows, perhaps necessarily, that true opposition to Empire and the forces of globalization may only be possible today if it is driven from the grass-roots up. What could defy the profit-maximizing logic of Empire more fundamentally than a large, oppositional social movement based on the living strategy of voluntary simplicity? What could challenge the rule of capital more directly than thousands upon millions of people militantly embracing, yet at the same time celebrating, the tantalizing paradox that less is more? Although framed in different terms, this is a proposition that Hardt and Negri, the pre-eminent theorists of Empire, make themselves:

Militancy today is a positive, constructive, and innovative activity. This is the form in which we and all those who revolt against the rule of capital recognize ourselves as militants today.... This militancy makes resistance into counterpower and makes rebellion into a project of love (Hardt and Negri, 2000: 413).

Significantly, it is in the life of St Francis of Assisi – one of the most radical and inspirational figures in the history of voluntary simplicity – where Hardt and Negri (2000: 413) discover ‘the ontological power of a new society.’ They conclude their text with a message both of hope and opposition – or rather, hope *in* opposition – a message which is reproduced here in sympathy: ‘Once again in postmodernity we find ourselves in Francis’s situation, posing against the misery of power the joy of being. This is a revolution that no power will control...’ (Hardt and Negri, 2000: 413).

While the problem of ‘Empire,’ then, must be recognized as a real one, there is a sense in which the very nature of the problem provides further validation for the defining commitment of this paper to a grassroots theory of legal transformation based on the oppositional living strategy of voluntary simplicity. The logic of justification here is quite simple, even if its implications are not: so far as the power of one’s political representatives is taken away (or misused), one’s individual political responsibility increases. As Hardt and Negri suggest, this may be the only logic more powerful than the profit-maximizing logic of capital.

It was Victor Hugo who once said, ‘There is nothing more powerful than an idea whose time has come’ (as quoted in Schultz, 1971: ix). While there are no grounds for complacency, just perhaps voluntary simplicity is such an idea.

#### 4. CONCLUSION

The ‘grassroots’ or ‘bottom up’ theory of legal transformation outlined in this paper would benefit from a more detailed and nuanced explication in the future. Assuming, however, that the general approach is sound – that the social sphere is an important source of law – one area in particular that needs more development is the *specific actions* that the Simplicity Movement could take in attempting to socially reconstruct law. This paper framed the Simplicity Movement in the context of law and social movement scholarship, indicating that social movements can shape or mobilize law in three main ways: (1) by influencing the culture within which judges adjudicate and thereby change what is considered a legitimate interpretation of law; (2) by more directly engaging with the judicial process by initiating legal proceedings in an attempt to challenge existing interpretations of law; and (3) by using electoral votes and cultural influence to mobilize the legislative process. But although this

framework for understanding the social reconstruction of law was described, a detailed program for grass-roots action was not provided, partly because any such program would require a substantial work in its own right (Hopkins, 2008); and partly because such a program – if it is indeed to be grass-roots – needs to be locally organized and context-specific, a task which in many ways resists any general or universalizing pronouncement. Nevertheless, if the Simplicity Movement is to ‘politicize’ – with the aim, for example, of transitioning by way of degrowth to a steady-state economy – then the question of how the movement can become a more significant oppositional force needs to be given much more attention by activists, educators, and scholars. It is hoped that this paper is received by interested parties as an invitation to explore these issues in more detail.

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