This paper examines two visions of the emerging regime of globalized capital flows to nation-states. The dominant vision, sometimes known as the “Washington Consensus,” is driven by nations representing the dominant economic powers, and their financial instruments, the International Monetary Fund and the World Bank. The Washington Consensus posits that growth can occur only in a tightly integrated global economy founded on trade liberalization, privatization, and macrostability. It views states much the way some Enlightenment philosophers understood God – as the great clockmaker whose function was limited to delineating the parameters under which individuals could freely and fairly optimize their condition. In the parlance of economic globalization, the state functions best as a sort of ur- or meta-enterprise providing the stability through which private ordering can fuel wealth. When the state fails, it ought to be treated like any other failed enterprise by its only superiors, that is, by the community of states and their financial instruments. State failure requires imposition of a corporate bankruptcy standard -- a stay on debt collection efforts, broad enforcement of absolute priority, creditor approval of the proposed reorganization plan, and well protected new interim financing pending restructuring.

Opposing the dominant vision is an anti-corporatist vision articulated by Fidel Castro. The anti-corporatist vision posits that the current regime of globalized financial markets produce rather than decrease poverty because the system is structured to inequitably favor creditors over borrowers. The economic overlay of the current system masks its political realities: sovereign debt has the effect of ceding a certain amount of sovereignty from the borrower to the lender and its instrumentalities. As a consequence, globalized capital markets are actually slave markets of sorts – where wealthy states purchase rights to control borrower states. The purpose of ownership is not crude dominance in the manner of 19th century imperialism, but to provide expanded access to capital and labor, suppliers and customers, for the economic activities of the controlling states. When states fail, they ought to be treated like victims of normative wrongs. State failure requires a determination of the nature of the debt, the conditions under which the debt was incurred and the equities of continuing the obligation. In many cases, states should be free to repudiate debt without further consequence.

This paper first examines the very different legal basis of each position. One rests on the normative foundations of domestic economic regulation, expanded to apply to states as quasi-corporate collectives. This is a system of individual rational actors, of science and formulae. The other rests on the normative foundation of an international moral and ethical system of collectives imposed through an emerging system of international law. This is a system of communal moral actors, of faith and the subjective. The implications of each for the shape and character of international regulation, and of the state as an actor in the context of the emerging global system of economic and political regulation, are then explored.