From

Empire

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PART 3: PASSAGES OF PRODUCTION

Chapter 3.5
MIXED CONSTITUTION

> One of the wonderful things about the information highway is that virtual equity is far easier to achieve than real-world equity . . .
> We are all created equal in the virtual world.
>
> Bill Gates

The paradigm shift of production toward the network model has fostered the growing power of transnational corporations beyond and above the traditional boundaries of nation-states. The novelty of this relationship has to be recognized in terms of the long-standing power struggle between capitalists and the state. The history of this conflict is easily misunderstood. One should understand that, most significantly, despite the constant antagonism between capitalists and the state, the relationship is really conflictive only when capitalists are considered individually.

Marx and Engels characterize the state as the executive board that manages the interests of capitalists; by this they mean that although the action of the state will at times contradict the immediate interests of individual capitalists, it will always be in the long-term interest of the collective capitalist, that is, the collective subject of social capital as a whole.[1] Competition among capitalists, the reasoning goes, however free, does not guarantee the common good of the collective capitalist, for their immediate egoistic drive for profit is fundamentally myopic. The state is required for prudence to mediate the interests of individual capitalists, raising them up in the collective interest of capital. Capitalists will thus all combat the powers of the state even while the state is acting in their own collective interests. This conflict is really a happy, virtuous dialectic from the perspective of total social capital.

When Giants Rule the Earth

The dialectic between the state and capital has taken on different configurations in the different phases of capitalist development. A quick and rough periodization will help us pose at least the most basic features of this dynamic. In the eighteenth and nineteenth centuries, as capitalism established itself fully in Europe, the state managed the affairs of the total social capital but required relatively unobtrusive powers of intervention. This period has come to be viewed in retrospect (with a certain measure of distortion) as the golden age of European capitalism, characterized by free trade among relatively small capitalists. Outside the European nationstate in this period, before the full deployment of powerful colonial administrations, European capital operated with even fewer constraints. To a large extent the capitalist companies were sovereign when operating in colonial or precolonial territories, establishing their own monopoly of force, their own police, their own courts. The Dutch East India Company, for example, ruled the territories it exploited in Java until the end of the eighteenth century with its own structures of sovereignty. Even after the company was dissolved in 1800, capital ruled relatively free of state mediation or control. [2] The situation was much the same for the capitalists operating in the British South Asian and African colonies. The sovereignty of the East India Company lasted until the East India Act of 1858 brought the company under the rule of the queen, and in southern Africa the free reign of capitalist adventurers and entrepreneurs lasted at least until the end of the century. [3] This

period was thus characterized by relatively little need of state intervention at home and abroad: within the European nation-states individual capitalists were ruled (in their own collective interest) without great conflict, and in the colonial territories they were effectively sovereign.

The relationship between state and capital changed gradually in the nineteenth and early twentieth centuries when crises increasingly threatened the development of capital. In Europe and the United States, corporations, trusts, and cartels grew to establish quasimonopolies over specific industries and clusters of industries extending far across national boundaries. The monopoly phase posed a direct threat to the health of capitalism because it eroded the competition among capitalists that is the lifeblood of the system. [4] The formation of monopolies and quasi-monopolies also undermined the managerial capacities of the state, and thus the enormous corporations gained the power to impose their particular interests over the interest of the collective capitalist. Consequently there erupted a whole series of struggles in which the state sought to establish its command over the corporations, passing antitrust laws, raising taxes and tariffs, and extending state regulation over industries. In the colonial territories, too, the uncontrolled activities of the sovereign companies and the adventurer capitalists led increasingly toward crisis. For example, the 1857 Indian rebellion against the powers of the East India Company alerted the British government to the disasters the colonial capitalists were capable of if left uncontrolled. The India Act passed by the British Parliament the next year was a direct response to the potential for crisis. The European powers gradually established fully articulated and fully functioning administrations over the colonial territories, effectively recuperating colonial economic and social activity securely under the jurisdiction of the nation-states and thus guaranteeing the interests of total social capital against crises. Internally and externally, the nation-states were forced to intervene more strongly to protect the interests of total social capital against individual capitalists.

Today a third phase of this relationship has fully matured, in which large transnational corporations have effectively surpassed the jurisdiction and authority of nation-states. It would seem, then, that this centuries-long dialectic has come to an end: *the state has been defeated and corporations now rule the earth!* In recent years numerous studies have emerged on the Left that read this phenomenon in apocalyptic terms as endangering humanity at the hands of unrestrained capitalist corporations and that yearn for the old protective powers of nation-states.[5] Correspondingly, proponents of capital celebrate a new era of deregulation and free trade. If this really were the case, however, if the state really had ceased to manage the affairs of collective capital and the virtuous dialectic of conflict between state and capital were really over, then the capitalists ought to be the ones most fearful of the future! Without the state, social capital has no means to project and realize its collective interests.

The contemporary phase is in fact not adequately characterized by the victory of capitalist corporations over the state. Although transnational corporations and global networks of production and circulation have undermined the powers of nation-states, state functions and constitutional elements have effectively been displaced to other levels and domains. We need to take a much more nuanced look at how the relationship between state and capital has changed. We need to recognize first of all the crisis of political relations in the national context. As the concept of national sovereignty is losing its effectiveness, so too is the so-called autonomy of the political. [6] Today a notion of politics as an independent sphere of the determination of consensus and a sphere of mediation among conflicting social forces has very little room to exist. Consensus is determined more significantly by economic factors, such as the equilibria of the trade balances and speculation on the value of currencies. Control over these movements is not in the hands of the political forces that are traditionally conceived as holding sovereignty, and consensus is determined not through the traditional political mechanisms but by other means. Government and politics come to be completely integrated into the system of transnational command. Controls are articulated through a series of international bodies and functions. This is equally true for the

mechanisms of political mediation, which really function through the categories of bureaucratic mediation and managerial sociology rather than through the traditional political categories of the mediation of conflicts and the reconciliation of class conflict. Politics does not disappear; what disappears is any notion of the autonomy of the political.

The decline of any autonomous political sphere signals the decline, too, of any independent space where revolution could emerge in the national political regime, or where social space could be transformed using the instruments of the state. The traditional idea of counter-power and the idea of resistance against modern sovereignty in general thus becomes less and less possible. This situation resembles in certain respects the one that Machiavelli faced in a different era: the pathetic and disastrous defeat of "humanistic" revolution or resistance at the hands of the powers of the sovereign principality, or really the early modern state. Machiavelli recognized that the actions of individual heroes (in the style of Plutarch's heroes) were no longer able even to touch the new sovereignty of the principality. A new type of resistance would have to be found that would be adequate to the new dimensions of sovereignty. Today, too, we can see that the traditional forms of resistance, such as the institutional workers' organizations that developed through the major part of the nineteenth and twentieth centuries, have begun to lose their power. Once again a new type of resistance has to be invented.

Finally, the decline of the traditional spheres of politics and resistance is complemented by the transformation of the democratic state such that its functions have been integrated into mechanisms of command on the global level of the transnational corporations. The national democratic model of state-managed exploitation functioned in the dominant capitalist countries so long as it was able to regulate the growing conflictuality in a dynamic fashion — so long, in other words, as it was able to keep alive the potential of the development and the utopia of state planning, so long, above all, as the class struggle in the individual countries determined a sort of dualism of power over which the unitary state structures — could situate themselves. To the extent that these conditions have disappeared, in both real and ideological terms, the national democratic capitalist state has self-destructed. The unity of single governments has been disarticulated and invested in a series of separate bodies (banks, international organisms of planning, and so forth, in addition to the traditional separate bodies), which all increasingly refer for legitimacy to the transnational level of power.

The recognition of the rise of the transnational corporations above and beyond the constitutional command of the nation-states should not, however, lead us to think that constitutional mechanisms and controls as such have declined, that transnational corporations, relatively free of nation-states, tend to compete freely and manage themselves. Instead, the constitutional functions have been displaced to another level. Once we recognize the decline of the traditional national constitutional system, we have to explore how power is constitutionalized on a supranational level — in other words, how the constitution of Empire begins to form.

The Pyramid of Global Constitution

At first glance and on a level of purely empirical observation, the new world constitutional framework appears as a disorderly and even chaotic set of controls and representative organizations. These global constitutional elements are distributed in a wide spectrum of bodies (in nation-states, in associations of nation-states, and in international organizations of all kinds); they are divided by function and content (such as political, monetary, health, and educational organisms); and they are traversed by a variety of productive activities. If we look closely, however, this disorderly set does nonetheless contain some points of reference. More than ordering elements, these are rather matrixes that delimit relatively coherent horizons in the disorder of global juridical and political life. When we analyze the configurations of global power

in its various bodies and organizations, we can recognize a pyramidal structure that is composed of three progressively broader tiers, each of which contains several levels.

At the narrow pinnacle of the pyramid there is one superpower, the United States, that holds hegemony over the global use of force — a superpower that can act alone but prefers to act in collaboration with others under the umbrella of the United Nations. This singular status was posed definitively with the end of the cold war and first confirmed in the Gulf War. On a second level, still within this first tier, as the pyramid broadens slightly, a group of nationstates control the primary global monetary instruments and thus have the ability to regulate international exchanges. These nationstates are bound together in a series of organisms — the G7, the Paris and London Clubs, Davos, and so forth. Finally, on a third level of this first tier a heterogeneous set of associations (including more or less the same powers that exercise hegemony on the military and monetary levels) deploy cultural and biopolitical power on a global level.

Below the first and highest tier of unified global command there is a second tier in which command is distributed broadly across the world, emphasizing not so much unification as articulation. This tier is structured primarily by the networks that transnational capitalist corporations have extended throughout the world market—networks of capital flows, technology flows, population flows, and the like. These productive organizations that form and supply the markets extend transversally under the umbrella and guarantee of the central power that constitutes the first tier of global power. If we were to take up the old Enlightenment notion of the construction of the senses by passing a rose in front of the face of the statue, we could say that the transnational corporations bring the rigid structure of the central power to life. In effect, through the global distribution of capitals, technologies, goods, and populations, the transnational corporations construct vast networks of communication and provide the satisfaction of needs. The single and univocal pinnacle of world command is thus articulated by the transnational corporations and the organization of markets. The world market both homogenizes and differentiates territories, rewriting the geography of the globe. Still on the second tier, on a level that is often subordinated to the power of the transnational corporations, reside the general set of sovereign nation-states that now consist essentially in local, territorialized organizations. The nation-states serve various functions: political mediation with respect to the global hegemonic powers, bargaining with respect to the transnational corporations, and redistribution of income according to biopolitical needs within their own limited territories. Nation-states are filters of the flow of global circulation and regulators of the articulation of global command; in other words, they capture and distribute the flows of wealth to and from the global power, and they discipline their own populations as much as this is still possible.

The third and broadest tier of the pyramid, finally, consists of groups that represent popular interests in the global power arrangement. The multitude cannot be incorporated directly into the structures of global power but must be filtered through mechanisms of representation. Which groups and organizations fulfill the contestatory and/or legitimating function of popular representation in the global power structures? Who represents the People in the global constitution? Or, more important, what forces and processes transform the multitude into a People that can then be represented in the global constitution? In many instances nation-states are cast in this role, particularly the collective of subordinated or minor states. Within the United Nations General Assembly, for example, collections of subordinate nation-states, the majority numerically but the minority in terms of power, function as an at least symbolic constraint on and legitimation of the major powers. In this sense the entire world is conceived as being represented on the floor of the U.N. General Assembly and in other global forums. Here, since the nation-states themselves are presented (both in the more or less democratic countries and in the authoritarian regimes) as representing the will of their People, the representation of nation-states on a global scale can only

lay claim to the popular will at two removes, through two levels of representation: the nation-state representing the People representing the multitude.

Nation-states, however, are certainly not the only organizations that construct and represent the People in the new global arrangement. Also on this third tier of the pyramid, the global People is represented more clearly and directly not by governmental bodies but by a variety of organizations that are at least relatively independent of nation-states and capital. These organizations are often understood as functioning as the structures of a global civil society, channeling the needs and desires of the multitude into forms that can be represented within the functioning of the global power structures. In this new global form we can still recognize instances of the traditional components of civil society, such as the media and religious institutions. The media have long positioned themselves as the voice or even the conscience of the People in opposition to the power of states and the private interests of capital. They are cast as a further check and balance on governmental action, providing an objective and independent view of all the People want or need to know. It has long been clear, however, that the media are in fact often not very independent from capital on the one hand and states on the other. [7] Religious organizations are an even more long-standing sector of non-governmental institutions that represent the People. The rise of religious fundamentalisms (both Islamic and Christian) insofar as they represent the People against the state should perhaps be understood as components of this new global civil society—but when such religious organizations stand against the state, they often tend to become the state themselves.

The newest and perhaps most important forces in the global civil society go under the name of non-governmental organizations (NGOs). The term NGO has not been given a very rigorous definition, but we would define it as any organization that purports to represent the People and operate in its interest, separate from (and often against) the structures of the state. Many in fact regard NGOs as synonymous with "people's organizations" because the People's interest is defined in distinction from state interest. [8] These organizations operate at local, national, and supranational levels. The term NGO thus groups together an enormous and heterogeneous set of organizations: in the early 1990s there were reported to be more than eighteen thousand NGOs worldwide. Some of these organizations fulfill something like the traditional syndicalist function of trade unions (such as the Self-Employed Women's Association of Ahmedabad, India); others continue the missionary vocation of religious sects (such as Catholic Relief Services); and still others seek to represent populations that are not represented by nationstates (such as the World Council of Indigenous Peoples). It would be futile to try to characterize the functioning of this vast and heterogeneous set of organizations under one single definition. [9]

Some critics assert that NGOs, since they are outside and often in conflict with state power, are compatible with and serve the neoliberal project of global capital. While global capital attacks the powers of the nation-state from above, they argue, the NGOs function as a "parallel strategy 'from below'" and present the "community face" of neoliberalism.[10] It may indeed be true that the activities of many NGOs serve to further the neoliberal project of global capital, but we should be careful to point out that this cannot adequately define the activities of all NGOs categorically. The fact of being non-governmental or even opposed to the powers of nation-states does not in itself line these organizations up with the interests of capital. There are many ways to be outside and opposed to the state, of which the neoliberal project is only one.

For our argument, and in the context of Empire, we are most interested in a subset of NGOs that strive to represent the least among us, those who cannot represent themselves. These NGOs, which are sometimes characterized broadly as humanitarian organizations, are in fact the ones that have come to be among the most powerful and prominent in the contemporary global order. Their mandate is not really to further the particular interests of any limited group but rather to represent

directly global and universal human interests. Human rights organizations (such as Amnesty International and Americas Watch), peace groups (such as Witness of Peace and Shanti Sena), and the medical and famine relief agencies (such as Oxfam and Médecins sans frontières) all defend human life against torture, starvation, massacre, imprisonment, and political assassination. Their political action rests on a universal moral call—what is at stake is life itself. In this regard it is perhaps inaccurate to say that these NGOs represent those who cannot represent themselves (the warring populations, the starving masses, and so forth) or even that they represent the global People in its entirety. They go further than that. What they really represent is the vital force that underlies the People, and thus they transform politics into a question of generic life, life in all its generality. These NGOs extend far and wide in the humus of biopower; they are the capillary ends of the contemporary networks of power, or (to return to our general metaphor) they are the broad base of the triangle of global power.

Here, at this broadest, most universal level, the activities of these NGOs coincide with the workings of Empire "beyond politics," on the terrain of biopower, meeting the needs of life itself.

Polybius and Imperial Government

If we take a step back from the level of empirical description, we can quickly recognize that the tripartite division offunctions and elements that has emerged allows us to enter directly into the problematic of Empire. In other words, the contemporary empirical situation resembles the theoretical description of imperial power as the supreme form of government that Polybius constructed for Rome and the European tradition handed down to us. [11] For Polybius, the Roman Empire represented the pinnacle of political development because it brought together the three "good" forms of power — monarchy, aristocracy, and democracy, embodied in the persons of the Emperor, the Senate, and the popular *comitia*. The Empire prevented these good forms from descending into the vicious cycle of corruption in which monarchy becomes tyranny, aristocracy becomes oligarchy, and democracy becomes ochlocracy or anarchy.

According to Polybius' analysis, monarchy anchors the unity and continuity of power. It is the foundation and ultimate instance of imperial rule. Aristocracy defines justice, measure, and virtue, and articulates their networks throughout the social sphere. It oversees the reproduction and circulation of imperial rule. Finally, democracy organizes the multitude according to a representational schema so that the People can be brought under the rule of the regime and the regime can be constrained to satisfy the needs of the People. Democracy guarantees discipline and redistribution. The Empire we find ourselves faced with today is also — mutatis mutandis — constituted by a functional equilibrium among these three forms of power: the monarchic unity of power and its global monopoly of force; aristocratic articulations through transnational corporations and nation-states; and democratic-representational *comitia*, presented again in the form of nation-states along with the various kinds of NGOs, media organizations, and other "popular" organisms. One might say that the coming imperial constitution brings together the three good traditional classifications of government in a relationship that is formally compatible with Polybius' model, even though certainly its contents are very different from the social and political forces of the Roman Empire.

We can recognize the ways in which we are close to and distant from the Polybian model of imperial power by situating ourselves in the genealogy of interpretations of Polybius in the history of European political thought. The major line of interpretation comes down to us through Machiavelli and the Italian Renaissance; it animated the Machiavellian tradition in debates preceding and following the English Revolution, and finally found its highest application in the thought of the Founding Fathers and the drafting of the U.S. Constitution. [12] The key shift to come about in the course of this interpretive tradition was the transformation of Polybius' classical *tripartite* model into a *trifunctional* model of constitutional construction. In a still medieval, proto-

bourgeois society such as Machiavelli's Florence or even prerevolutionary England, the Polybian synthesis was conceived as an edifice uniting three distinct class bodies: to monarchy belonged the union and force, to aristocracy the land and the army, and to the bourgeoisie the city and money. If the state were to function properly, every possible conflict among these bodies had to be resolved in the interest of the totality. In modern political science, however, from Montesquieu to the Federalists, this synthesis was transformed into a model that regulated *not bodies but functions*. [13] Social groups and classes were themselves considered embodying functions: the executive, the judiciary, and the representative. These functions were abstracted from the collective social subjects or classes that enacted them and presented instead as pure juridical elements. The three functions were then organized in an equilibrium that was formally the same as the equilibrium that had previously supported the interclass solution. It was an equilibrium of checks and balances, of weights and counterweights, that continually managed to reproduce the unity of the state and the coherence of its parts. [14]

It seems to us that in certain respects the original ancient Polybian model of the constitution of Empire is closer to our reality than the modern liberal tradition's transformation of it. Today we are once again in a genetic phase of power and its accumulation, in which functions are seen primarily from the angle of the relations and materiality of force rather than from the perspective of a possible equilibrium and the formalization of the total definitive arrangement. In this phase of the constitution of Empire, the demands expressed by the modern development of constitutionalism (such as the division of powers and the formal legality of procedures) are not given the highest priority (see Section 1.1).

One could even argue that our experience of the constitution (in formation) of Empire is really the development and coexistence of the "bad" forms of government rather than the "good" forms, as the tradition pretends. All the elements of the mixed constitution appear at first sight in fact as through a distorting lens. Monarchy, rather than grounding the legitimation and transcendent condition of the unity of power, is presented as a global police force and thus as a form of tyranny. The transnational aristocracy seems to prefer financial speculation to entrepreneurial virtue and thus appears as a parasitical oligarchy. Finally, the democratic forces that in this framework ought to constitute the active and open element of the imperial machine appear rather as corporative forces, as a set of superstitions and fundamentalisms, betraying a spirit that is conservative when not downright reactionary. [15] Both within the individual states and on the international level, this limited sphere of imperial "democracy" is configured as a *People* (an organized particularity that defends established privileges and properties) rather than as a *multitude* (the universality of free and productive practices).

Hybrid Constitution

The Empire that is emerging today, however, is not really a throwback to the ancient Polybian model, even in its negative, "bad" form. The contemporary arrangement is better understood in postmodern terms, that is, as an evolution beyond the modern, liberal model of a mixed constitution. The framework of juridical formalization, the constitutional mechanism of guarantees, and the schema of equilibrium are all transformed along two primary axes in the passage from the modern to the postmodern terrain.

The first axis of transformation involves the nature of the mixture in the constitution — a passage from the ancient and modern model of a *mixtum* of separate bodies or functions to a process of the hybridization of governmental functions in the current situation. The processes of the real subsumption, of subsuming labor under capital and absorbing global society within Empire, force the figures of power to destroy the spatial measure and distance that had defined their relationships, merging the figures in hybrid forms. This mutation of spatial relationships transforms the exercise of power itself. First of all, postmodern imperial monarchy involves rule

over the unity of the world market, and thus it is called on to guarantee the circulation of goods, technologies, and labor power — to guarantee, in effect, the collective dimension of the market. The processes of the globalization of monarchic power, however, can make sense only if we consider them in terms of the series of hybridizations that monarchy operates with the other forms of power. Imperial monarchy is not located in a separate isolable place — and our postmodern Empire has no Rome. The monarchic body is itself multiform and spatially diffuse. This process of hybridization is even more clear with respect to the development of the aristocratic function, and specifically the development and articulation of productive networks and markets. In fact, aristocratic functions tend to merge inextricably with monarchic functions. In the case of postmodern aristocracy, the problem consists not only in creating a vertical conduit between a center and a periphery for producing and selling commodities, but also in continuously putting in relation a wide horizon of producers and consumers within and among markets. This omnilateral relationship between production and consumption becomes all the more important when the production of commodities tends to be defined predominantly by immaterial services embedded in network structures. Here hybridization becomes a central and conditioning element of the formation of circuits of production and circulation. [16] Finally, the democratic functions of Empire are determined within these same monarchic and aristocratic hybridizations, shifting their relations in certain respects and introducing new relations of force. On all three levels, what was previously conceived as mixture, which was really the organic interaction of functions that remained separate and distinct, now tends toward a hybridization of the functions themselves. We might thus pose this first axis of transformation as a passage from *mixed constitution to hybrid constitution*.

A second axis of constitutional transformation, which demonstrates both a displacement of constitutional theory and a new quality of the constitution itself, is revealed by the fact that in the present phase, command must be exercised to an ever greater extent over the temporal dimensions of society and hence over the dimension of subjectivity. We have to consider how the monarchic moment functions both as a unified world government over the circulation of goods and as a mechanism of the organization of collective social labor that determines the conditions of its reproduction. [17] The aristocratic moment must deploy its hierarchical command and its ordering functions over the transnational articulation of production and circulation, not only through traditional monetary instruments, but also to an ever greater degree through the instruments and dynamics of the cooperation of social actors themselves. The processes of social cooperation have to be constitutionally formalized as an aristocratic function. Finally, although both the monarchic and the aristocratic functions allude to the subjective and productive dimensions of the new hybrid constitution, the key to these transformations resides in the democratic moment, and the temporal dimension of the democratic moment has to refer ultimately to the multitude. We should never forget, however, that we are dealing here with the imperial overdetermination of democracy, in which the multitude is captured in flexible and modulating apparatuses of control. This is precisely where the most important qualitative leap must be recognized: from the disciplinary paradigm to the control paradigm of government.[18] Rule is exercised directly over the movements of productive and cooperating subjectivities; institutions are formed and redefined continually according to the rhythm of these movements; and the topography of power no longer has to do primarily with spatial relations but is inscribed, rather, in the temporal displacements of subjectivities. Here we find once again the non-place of power that our analysis of sovereignty revealed earlier. The non-place is the site where the hybrid control functions of Empire are exercised.

In this imperial non-place, in the hybrid space that the constitutional process constructs, we still find the continuous and irrepressible presence of subjective movements. Our problematic remains something like that of the mixed constitution, but now it is infused with the full intensity of the displacements, modulations, and hybridizations involved in the passage to postmodernity. Here the movement from the social to the political and the juridical that always defines constituent

processes begins to take shape; here the reciprocal relationships between social and political forces that demand a formal recognition in the constitutional process begin to emerge; and finally, here the various functions (monarchy, aristocracy, and democracy) measure the force of the subjectivities that constitute them and attempt to capture segments of their constituent processes.

Struggle over the Constitution

Our ultimate objective in this analysis of the constitutional processes and figures of Empire is to recognize the terrain on which contestation and alternatives might emerge. In Empire, as indeed was also the case in modern and ancient regimes, the constitution itself is a site of struggle, but today the nature of that site and that struggle is by no means clear. The general outlines of today's imperial constitution can be conceived in the form of a rhizomatic and universal communication network in which relations are established to and from all its points or nodes. Such a network seems paradoxically to be at once completely open and completely closed to struggle and intervention. On the one hand, the network formally allows all possible subjects in the web of relations to be present simultaneously, but on the other hand, the network itself is a real and proper non-place. The struggle over the constitution will have to be played out on this ambiguous and shifting terrain.

There are three key variables that will define this struggle, variables that act in the realm between the common and the singular, between the axiomatic of command and the self-identification of the subject, and between the production of subjectivity by power and the autonomous resistance of the subjects themselves. The first variable involves the guarantee of the network and its general control, in such a way that (positively) the network can always function and (negatively) it cannot function against those in power. [19] The second variable concerns those who distribute services in the network and the pretense that these services are remunerated equitably, so that the network can sustain and reproduce a capitalist economic system and at the same time produce the social and political segmentation that is proper to it.[20] The third variable, finally, is presented within the network itself. It deals with the mechanisms by which differences among subjectivities are produced and with the ways in which these differences are made to function within the system.

According to these three variables, each subjectivity must become a subject that is ruled in the general networks of control (in the early modern sense of the one who is subject [*subdictus*] to a sovereign power), and at the same time each must also be an independent agent of production and consumption within networks. Is this double articulation really possible? Is it possible for the system to sustain simultaneously political subjection and the subjectivity of the producer/consumer? It does not really seem so. In effect, the fundamental condition of the existence of the *universal network*, which is the central hypothesis of this constitutional framework, is that it be *hybrid*, and that is, for our purposes, that the political subject be fleeting and passive, while the producing and consuming agent is present and active. This means that, far from being a simple repetition of a traditional equilibrium, the formation of the new mixed constitution leads to a fundamental disequilibrium among the established actors and thus to a new social dynamic that liberates the producing and consuming subject from (or at least makes ambiguous its position within) the mechanisms of political subjection. Here is where the primary site of struggle seems to emerge, on the terrain of the production and regulation of subjectivity.

Is this really the situation that will result from the capitalist transformation of the mode of production, the cultural developments of postmodernism, and the processes of political constitution of Empire? We are certainly not yet in the position to come to that conclusion. We can see, nonetheless, that in this new situation the strategy of equilibrated and regulated participation, which the liberal and imperial mixed constitutions have always followed, is confronted by new difficulties and by the strong expression of autonomy by the individual and collective productive subjectivities involved in the process. On the terrain of the production and regulation of

subjectivity, and in the disjunction between the political subject and the economic subject, it seems that we can identify a real field of struggle in which all the gambits of the constitution and the equilibria among forces can be reopened — a true and proper situation of crisis and maybe eventually of revolution.

Spectacle of the Constitution

The open field of struggle that seems to appear from this analysis, however, quickly disappears when we consider the new mechanisms by which these hybrid networks of participation are manipulated from above. [21] In effect, the glue that holds together the diverse functions and bodies of the hybrid constitution is what Guy Debord called the spectacle, an integrated and diffuse apparatus of images and ideas that produces and regulates public discourse and opinion. [22] In the society of the spectacle, what was once imagined as the public sphere, the open terrain of political exchange and participation, completely evaporates. The spectacle destroys any collective form of sociality—individualizing social actors in their separate automobiles and in front of separate video screens—and at the same time imposes a new mass sociality, a new uniformity of action and thought. On this spectacular terrain, traditional forms of struggle over the constitution become inconceivable.

The common conception that the media (and television in particular) have destroyed politics is false only to the extent that it seems based on an idealized notion of what democratic political discourse, exchange, and participation consisted of in the era prior to this media age. The difference of the contemporary manipulation of politics by the media is not really a difference of nature but a difference of degree. In other words, there have certainly existed previously numerous mechanisms for shaping public opinion and public perception of society, but contemporary media provide enormously more powerful instruments for these tasks. As Debord says, in the society of the spectacle only what appears exists, and the major media have something approaching a monopoly over what appears to the general population. This law of the spectacle clearly reigns in the realm of media-driven electoral politics, an art of manipulation perhaps developed first in the United States but now spread throughout the world. The discourse of electoral seasons focuses almost exclusively on how candidates appear, on the timing and circulation of images. The major media networks conduct a sort of second-order spectacle that reflects on (and undoubtedly shapes in part) the spectacle mounted by the candidates and their political parties. Even the old calls for a focus less on image and more on issues and substance in political campaigns that we heard not so long ago seem hopelessly naive today. Similarly, the notions that politicians function as celebrities and that political campaigns operate on the logic of advertising — hypotheses that seemed radical and scandalous thirty years ago — are today taken for granted. Political discourse is an articulated sales pitch, and political participation is reduced to selecting among consumable images.

When we say that the spectacle involves the *media manipulation* of public opinion and political action, we do not mean to suggest that there is a little man behind the curtain, a great Wizard of Oz who controls all that is seen, thought, and done. There is no single locus of control that dictates the spectacle. The spectacle, however, generally functions *as if* there were such a point of central control. As Debord says, the spectacle is both diffuse and integrated. Conspiracy theories of governmental and extragovernmental plots of global control, which have certainly proliferated in recent decades, should thus be recognized as both true and false. As Fredric Jameson explains wonderfully in the context of contemporary film, conspiracy theories are a crude but effective mechanism for approximating the functioning of the totality. [23] The spectacle of politics functions as f the media, the military, the government, the transnational corporations, the global financial institutions, and so forth were all consciously and explicitly directed by a single power even though in reality they are not.

The society of the spectacle rules by wielding an age-old weapon. Hobbes recognized long ago that for effective domination "the Passion to be reckoned upon, is Fear."[24] For Hobbes, fear is what binds and ensures social order, and still today fear is the primary mechanism of control that fills the society of the spectacle.[25] Although the spectacle seems to function through desire and pleasure (desire for commodities and pleasure of consumption), it really works through the communication of fear — or rather, the spectacle creates forms of desire and pleasure that are intimately wedded to fear. In the vernacular of early modern European philosophy, the communication of fear was called *superstition*. And indeed the politics of fear has always been spread through a kind of superstition. What has changed are the forms and mechanisms of the superstitions that communicate fear.

The spectacle of fear that holds together the postmodern, hybrid constitution and the media manipulation of the public and politics certainly takes the ground away from a struggle over the imperial constitution. It seems as if there is no place left to stand, no weight to any possible resistance, but only an implacable machine of power. It is important to recognize the power of the spectacle and the impossibility of traditional forms of struggle, but this is not the end of the story. As the old sites and forms of struggle decline, new and more powerful ones arise. The spectacle of imperial order is not an ironclad world, but actually opens up the real possibility of its overturning and new potentials for revolution.

NOTES

[1] For an analysis of the passages of Marx's and Engel's work that deal with the theory of the state, see Antonio Negri, "Communist State Theory," in Michael Hardt and Antonio Negn, *Labor of Dionysus* (Minneapolis: University of Minnesota Press, 1994), pp. 139-176.

[2] See M. C. Ricklefs, *A History of Modern Indonesia*, 2nd ed. (London: Macmillan, 1993). The complex relationship among the Dutch administration, traditional Javanese authonties, and economic powers at the beginning of the twentieth century is described beautifully in Pramoedya Ananta Toer's great four-volume histoncal novel, *The Buru Quartet*, trans. Max Lane (London: Penguin Books, 1982-1992).

[3] See Brian Gardner, *The East India Company* (London: Rupert Hart-Davis, 1971); and Geoffrey Wheatcroft, *The Randlords* (New York: Atheneum, 1986).

[4] Marx argued that the greater concentration and centralization of capital acted against the forces of competition and was thus a destructive process for capital. See Karl Marx, *Capital*, vol. 3, trans. David Fernbach (London: Penguin, 1981), pp. 566-573. Lenin took up this same argument in his analysis of the monopoly phase of capital: monopolies destroy competition, which is the foundation of capitalist development. See V. I. Lenin, *Imperialism: The Highest Stage of Capitalism* (New York: International Publishers, 1939), pp. 16-30.

[5] See, for example, Richard Barnet and John Cavanagh, *Global Dreams: Imperial Corporations and the New World Order* (New York: Simon and Schuster, 1994).

[6] The concept of the "autonomy of the political," which belongs to the tradition of political theology, was given its first great definition by the political theologian Thomas Hobbes. The concept was raised to even greater heights by Carl Schmitt; see puncipally The *Concept of the Political*, trans. George Schwab (New Brunswick, NJ.: Rutgers University Press, 1976); and *Verfassungslehre*, 8th ed. (Berlin: Duncker & Humblot, 1993). The political is understood here as the foundation of every social relationship and the originary evaluation or "decision" that constructs the sphere of power and thus guarantees the space of life. It is interesting to note that Schmitt's conception of the political is ineluctably tied to the juridical definition of the nation-state and inconceivable outside of its realm. Schmitt himself seems to recognize this fact after having witnessed the catastrophe of the German nation-state. See Carl Schmitt, *Der Nomos der Erde im Völkerrecht des jus publicum europaeum* (Cologne: Greven Verlag, 195()). The most extensive consideration of Schmitt's conception of the political that we know is contained in Carlo Galli, *Genealogia della politica: c. Scamitt e la crisi del pensiero politico moderno* (Bologna: II Mulino, 1996). This critique of Sal1itt's concept of the "autonomy of the political" should also be applied to the various positions that in some way derive from his thought. At two extremes we can cite Leo Strauss, who tried to appropriate Schmitt's concept under his own liberal conception of natural right, and Mario Tronti, who sought to find in the autonomy of

the political a terrain that could support a compromise with liberal political forces in a period when the Western European communist parties were in deep crisis. For Strauss's interpretation of Schmitt's text and their ambiguous relationship, see Heinrich Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue*, trans. J. Harvey Lomax (Chicago: University of Chicago Press, 1995). For Tronti, see *L'autonomia del politico* (Milan: Feltrinelli, l977).

[7] There are numerous excellent critiques of the media and their purported objectivity. For two good examples, see Edward Said, *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World* (New York: Pantheon,1981); and Edward Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of Mass Media* (New York: Pantheon, 1988).

[8] See, for example, Elise Boulding, "IGOs, the UN, and Internationa1 NGOs: The Evolving Ecology of the International System," in Richard Falk, RobertJohansen, and Samuel Kim, eds., *The Constitutional Foundations of World Peace* (Albany: SUNY Press, 1993), pp. 167-188; quotation p. 179.

[9] For characterizations of the activities of various kinds of NGOs, see John Clark, *Democratizing Development: The Role of Voluntary Organizations* (West Hartford, Conn.: Kumarian Press, 1990); Lowell Livezey, *Nongovernmental Organizations and the Ideas of Human Rignts* (Princeton: The Center of International Studies, 1988); and Andrew Natsios, "NGOs and the UN System in Complex Humanitarian Emergencies: Conflict or Cooperation?" in Peter Dichl, ed., *The Politics of Global Governance: International Organizations in an Independent World* (Boulder: Lynne Reiner, 1997), pp. 287-303.

[10] James Petras, "Imperialism and NGOs in Latin America," *Monthly Review*, 49 (December 1997), 1()-27.

[11] See Polybius, *The Rise of the Roman Empire*, trans. Ian Scott-Kilvert (Harmondsworth: Penguin, 1979), Book VI, pp. 302-352.

[12] See G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975).

[13] On the transformation from a model of bodies to a functional model in the U.S. Constitution, see Antonio Negri, *Il potere costituente: saggio sulle alternative del moderno* (Milan: Sugarco, 1992), chap. 4, pp. 165-222.

[14] It is interesting to note here that, at least since the constitutionalism of the Weimar Republic, the continental European tradition of constitutional thought has also adopted these principles, which were presumed to belong only to the Anglo-Saxon world. The fundamental texts for the German tradition in this regard are Max Weber, *Parlament und Regierung im neugeordneten Deutschland* (Munich: Duncker & Humblot, 1918); Hugo Preuss, *Stuat, Recht und Freikeit* (Tubingen: Mohr, 1926); and Hermann Heller, *Die Souveranität* (Berlin: W. de Grnyter, 1927).

[15] Generally the analyses that come from the Left are the ones that insist most strongly that the genesis of Empire activates the "bad" forms of government. See, for example, Étienne Balibar, *La crainte des masses* (Pans: Galilee, 1997), a book which in other regards is extremely open to the analysis of the new processes of the (mass) production of subjectivity.

[16] For an analysis of these processes and a good discussion of the relevant bibliography, see Yann Moulier Boutang, "La revanche des externalités: globalisation des économies, externalités, mobilité, transformation de l'économie et de l'intervention publique," *Futur antérieur*, no. 39-40 (Fall 1997), pp. 85-ll5.

[17] It should be clear from what we have said thus far that the theoretical condition underlying our hypotheses has to involve a radically revised analysis of reproduction. In other words, any theoretical conception that regards reproduction as simply part of the circulation of capital (as classical economics, Marxian theory, and neoclassical theories have done) cannot deal critically with the conditions of our new situation, particularly those resulting from the political-economic relations of the world market in postmodernity. Our description of biopower in Section 1.2 is the beginning of such a revised analysis of reproduction. For the definition of some fundamental elements that relate to the integration of labor, affect, and biopower, see Antonio Negri, "Value and Affect" and Michael Hardt, "Affective Labor," *boundary2*, 26, no. 2 (Summer 1999).

[18] We are refering once again to the work of Michel Foucault and to Gilles Deleuze's interpretation of it. See our discussion in Section 1.2.

[19] This first variable and the analysis of the functioning of the network in constitutional terms relates in certain respects to the various autopoietic theories of networks. See, for example, the work of Humberto Maturana and Francisco Varela. For an excellent analysis of systems theory in the context of postmodern theories, see Cary Wolfe, *Critical Environments* (Minneapolis: University of Minnesota Press, 1998).

[20] The various advances in systems theories contribute also to our understanding of this second variable. Niklas Luhmann's work has been the most influential for the analysis of autopoletic systems in terms of legal and social philosophy.

[21] Jameson offers an excellent critique of "the conception of mass culture as sheer manipulation." He argues that although mass culture is "managed," it nonetheless contains utopian possibilities. See Fredric Jameson, "Reification and Utopia in Mass Culture," in *Signatures of the Visible* (New York: Routledge, 1992), pp. 9-34.

[22] See Guy Debord, *Society of the Spectacle*, trans. Donald Nicholson-Smith (New York: Zone Books, 1994); and *Comments on the Society of the Spectacle* (London: Verso, 1990).

[23] Fredric Jameson, "Totality as Conspiracy," in *The Geopolitial Aesthetic: Cinema and Space in the World System* (Bloomington: Indiana Universitv Press, 1992), pp. 9-84.

[22] Thomas Hobbes, *Leviathan*, ed. C. B. Macpherson (London: Penguin, 1968), p. 200.

[23] See Brian Massumi, ed., *The Politics of Everyday Fear* (Minneapolis: University of Minnesota Press, 1993).