

WORLD ORDER

Capitalism only triumphs when it becomes identified with the state,
when it is the state.

Fernand Braudel

They make slaughter and they call it peace.
Tacitus

The problematic of Empire is determined in the first place by one simple fact: that there is world order. This order is expressed as a juridical formation. Our initial task, then, is to grasp the *constitution* of the order being formed today. We should rule out from the outset, however, two common conceptions of this order that reside on opposing limits of the spectrum: first, the notion that the present order somehow rises up *spontaneously* out of the interactions of radically heterogeneous global forces, as if this order were a harmonious concert orchestrated by the natural and neutral hidden hand of the world market; and second, the idea that order is dictated by a single power and a single center of rationality *transcendent* to global forces, guiding the various phases of historical development according to its conscious and all-seeing plan, something like a conspiracy theory of globalization.¹

United Nations

Before investigating the constitution of Empire in juridical terms, we must analyze in some detail the constitutional processes that have come to define the central juridical categories, and in particular

give careful attention to the process of the long transition from the sovereign right of nation-states (and the international right that followed from it) to the first postmodern global figures of imperial right. As a first approximation one can think of this as the genealogy of juridical forms that led to, and now leads beyond, the supranational role of the United Nations and its various affiliated institutions.

It is widely recognized that the notion of international order that European modernity continually proposed and repropounded, at least since the Peace of Westphalia, is now in crisis.² It has in fact always been in crisis, and this crisis has been one of the motors that has continuously pushed toward Empire. Perhaps this notion of international order and its crisis should be dated from the time of the Napoleonic Wars, as some scholars claim, or perhaps the origin should be located in the Congress of Vienna and the establishment of the Holy Alliance.³ In any case, there can be no doubt that by the time of the First World War and the birth of the League of Nations, a notion of international order along with its crisis had been definitively established. The birth of the United Nations at the end of the Second World War merely reinitiated, consolidated, and extended this developing international juridical order that was first European but progressively became completely global. The United Nations, in effect, can be regarded as the culmination of this entire constitutive process, a culmination that both reveals the limitations of the notion of *international* order and points beyond it toward a new notion of *global* order. One could certainly analyze the U.N. juridical structure in purely negative terms and dwell on the declining power of nation-states in the international context, but one should also recognize that the notion of right defined by the U.N. Charter also points toward a new positive source of juridical production, effective on a global scale—a new center of normative production that can play a sovereign juridical role. The U.N. functions as a hinge in the genealogy from international to global juridical structures. On the one hand, the entire U.N. conceptual structure is predicated on the recognition and legitima-

tion of the sovereignty of individual states, and it is thus planted squarely within the old framework of international right defined by pacts and treaties. On the other hand, however, this process of legitimation is effective only insofar as it transfers sovereign right to a real *supranational* center. It is not our intention here to criticize or lament the serious (and at times tragic) inadequacies of this process; indeed, we are interested in the United Nations and the project of international order not as an end in itself, but rather as a real historical lever that pushed forward the transition toward a properly global system. It is precisely the inadequacies of the process, then, that make it effective.

To look more closely at this transition in juridical terms, it is useful to read the work of Hans Kelsen, one of the central intellectual figures behind the formation of the United Nations. As early as the 1910s and 1920s, Kelsen proposed that the international juridical system be conceived as the supreme source of every national juridical formation and constitution. Kelsen arrived at this proposal through his analyses of the formal dynamics of the particular orderings of states. The limits of the nation-state, he claimed, posed an insurmountable obstacle to the realization of the idea of right. For Kelsen, the partial ordering of the domestic law of nation-states led back necessarily to the universality and objectivity of the international ordering. The latter is not only logical but also ethical, for it would put an end to conflicts between states of unequal power and affirm instead an equality that is the principle of real international community. Behind the formal sequence that Kelsen described, then, there was a real and substantial drive of Enlightenment modernization. Kelsen sought, in Kantian fashion, a notion of right that could become an "organization of humanity and [would] therefore be one with the supreme ethical idea."⁴ He wanted to get beyond the logic of power in international relations so that "the particular states could be regarded juridically as entities of equal rank" and thus a "world and universal state" could be formed, organized as a "universal community superior to the particular states, enveloping them all within itself."⁵

It was only fitting, then, that Kelsen would later have the privilege of attending the meetings in San Francisco that founded the United Nations and seeing his theoretical hypothesis realized. For him the United Nations organized a rational idea.⁶ It gave legs to an idea of the spirit; it proposed a real base of effectiveness for a transcendental schema of the validity of right situated above the nation-state. The validity and efficacy of right could now be united in the supreme juridical source, and under these conditions Kelsen's notion of a fundamental norm could finally be realized.

Kelsen conceived the formal construction and validity of the system as independent from the material structure that organizes it, but in reality the structure must somehow exist and be organized materially. How can the system actually be constructed? This is the point at which Kelsen's thought ceases to be of any use to us: it remains merely a fantastic utopia. The transition we wish to study consists precisely in this gap between the formal conception that grounds the validity of the juridical process in a supranational source and the material realization of this conception. The life of the United Nations, from its foundation to the end of the cold war, has been a long history of ideas, compromises, and limited experiences oriented more or less toward the construction of such a supranational ordering. The aporias of this process are obvious, and there is no need for us to describe them in detail here. Certainly the United Nations' domination of the general framework of the supranational project between 1945 and 1989 led to some of the most perverse theoretical and practical consequences. And yet, all this was not enough to block the constitutionalization of a supranational power.⁷ In the ambiguous experiences of the United Nations, the juridical concept of Empire began to take shape.

The theoretical responses to this constitutionalization of a supranational world power, however, have been entirely inadequate. Instead of recognizing what was really new about these supranational processes, the vast majority of juridical theorists merely tried to resurrect anachronistic models to apply to the new problems. To a large extent, in fact, the models that had presided over the

birth of the nation-state were simply dusted off and repropounded as interpretive schema for reading the construction of a supranational power. The "domestic analogy" thus became the fundamental methodological tool in the analysis of international and supranational forms of order.⁸ Two lines of thought have been particularly active during this transition, and as a kind of shorthand we can conceive of them as resurrections of the Hobbesian and the Lockean ideologies that in another era dominated the European conceptions of the sovereign state.

The Hobbesian variant focuses primarily on the transfer of the title of sovereignty and conceives the constitution of the supranational sovereign entity as a contractual agreement grounded on the convergence of preexisting state subjects.⁹ A new transcendent power, "tertium super partes," primarily concentrated in the hands of the military (the one that rules over life and death, the Hobbesian "God on earth"), is, according to this school, the only means capable of constituting a secure international system and thus of overcoming the anarchy that sovereign states necessarily produce.¹⁰ By contrast, according to the Lockean variant, the same process is projected in more decentralized, pluralistic terms. In this framework, just when the transfer toward a supranational center is accomplished, networks of local and constitutionally effective counterpowers rise up to contest and/or support the new figure of power. Rather than global security, then, what is proposed here is a global constitutionalism, or really this amounts to a project of overcoming state imperatives by constituting a *global civil society*. These slogans are meant to evoke the values of globalism that would infuse the new international order, or really the new transnational democracy.¹¹ Whereas the Hobbesian hypothesis emphasizes the contractual process that gives rise to a new unitary and transcendental supranational power, the Lockean hypothesis focuses on the counterpowers that animate the constitutive process and support the supranational power. In both cases, however, the new global power is presented merely in analogy with the classical conception of the national sovereign power of states. Rather than recognizing the new nature of imperial power,

the two hypotheses simply insist on the old inherited forms of state constitution: a monarchic form in the Hobbesian case, a liberal form in the Lockean.

Although, given the conditions in which these theories were formulated (during the cold war, when the United Nations only limped forward in the best of times), we must recognize the great foresight of these theorists, we also have to point out that they cannot account for the real novelty of the historical processes we are witnessing today.¹² In this regard these theories can and do become harmful, because they do not recognize the accelerated rhythm, the violence, and the necessity with which the new imperial paradigm operates. *What they do not understand is that imperial sovereignty marks a paradigm shift.* Paradoxically (but it is really not that paradoxical), only Kelsen's conception poses the real problem, even if his conception is limited to a strictly formalist point of view. What political power already exists or can be created, he asks, that is adequate to a globalization of economic and social relations? What juridical source, what fundamental norm, and what command can support a new order and avoid the impending descent into global disorder?

The Constitution of Empire

Many contemporary theorists are reluctant to recognize the globalization of capitalist production and its world market as a fundamentally new situation and a significant historical shift. The theorists associated with the world-systems perspective, for example, argue that from its inception, capitalism has always functioned as a world economy, and therefore those who clamor about the novelty of its globalization today have only misunderstood its history.¹³ Certainly, it is important to emphasize both capitalism's continuous foundational relationship to (or at least a tendency toward) the world market and capitalism's expanding cycles of development; but proper attention to the *ab origine* universal or universalizing dimensions of capitalist development should not blind us to the rupture or shift in contemporary capitalist production and global relations

of power. We believe that this shift makes perfectly clear and possible today the capitalist project to bring together economic power and political power, to realize, in other words, a properly capitalist order. In constitutional terms, the processes of globalization are no longer merely a fact but also a source of juridical definitions that tends to project a single supranational figure of political power.

Other theorists are reluctant to recognize a major shift in global power relations because they see that the dominant capitalist nation-states have continued to exercise imperialist domination over the other nations and regions of the globe. From this perspective, the contemporary tendencies toward Empire would represent not a fundamentally new phenomenon but simply a perfecting of imperialism.¹⁴ Without underestimating these real and important lines of continuity, however, we think it is important to note that what used to be conflict or competition among several imperialist powers has in important respects been replaced by the idea of a single power that overdetermines them all, structures them in a unitary way, and treats them under one common notion of right that is decidedly postcolonial and postimperialist. This is really the point of departure for our study of Empire: a new notion of right, or rather, a new inscription of authority and a new design of the production of norms and legal instruments of coercion that guarantee contracts and resolve conflicts.

We should point out here that we accord special attention to the juridical figures of the constitution of Empire at the beginning of our study not out of any specialized disciplinary interest—as if right or law in itself, as an agent of regulation, were capable of representing the social world in its totality—but rather because they provide a good index of the processes of imperial constitution. New juridical figures reveal a first view of the tendency toward the centralized and unitary regulation of both the world market and global power relations, with all the difficulties presented by such a project. Juridical transformations effectively point toward changes in the material constitution of world power and order. The transition we are witnessing today from traditional international law, which

was defined by contracts and treaties, to the definition and constitution of a new sovereign, supranational world power (and thus to an imperial notion of right), however incomplete, gives us a framework in which to read the totalizing social processes of Empire. In effect, the juridical transformation functions as a symptom of the modifications of the material biopolitical constitution of our societies. These changes regard not only international law and international relations but also the internal power relations of each country. While studying and critiquing the new forms of international and supranational law, then, we will at the same time be pushed to the heart of the political theory of Empire, where the problem of supranational sovereignty, its source of legitimacy, and its exercise bring into focus political, cultural, and finally ontological problems.

To approach the juridical concept of Empire, we might look first at the genealogy of the concept, which will give us some preliminary terms for our investigation. The concept comes down to us through a long, primarily European tradition, which goes back at least to ancient Rome, whereby the juridico-political figure of Empire was closely linked to the Christian origins of European civilizations. There the concept of Empire united juridical categories and universal ethical values, making them work together as an organic whole. This union has continuously functioned within the concept, whatever the vicissitudes of the history of Empire. Every juridical system is in some way a crystallization of a specific set of values, because ethics is part of the materiality of every juridical foundation, but Empire—and in particular the Roman tradition of imperial right—is peculiar in that it pushes the coincidence and universality of the ethical and the juridical to the extreme: in Empire there is peace, in Empire there is the guarantee of justice for all peoples. The concept of Empire is presented as a global concert under the direction of a single conductor, a unitary power that maintains the social peace and produces its ethical truths. And in order to achieve these ends, the single power is given the necessary force to conduct, when necessary, "just wars" at the borders against the barbarians and internally against the rebellious.¹⁵

From the beginning, then, Empire sets in motion an ethico-political dynamic that lies at the heart of its juridical concept. This juridical concept involves two fundamental tendencies: first, the notion of a right that is affirmed in the construction of a new order that envelops the entire space of what it considers civilization, a boundless, universal space; and second, a notion of right that encompasses all time within its ethical foundation. Empire exhausts historical time, suspends history, and summons the past and future within its own ethical order. In other words, Empire presents its order as permanent, eternal, and necessary.

In the Germanic-Roman tradition that thrived throughout the Middle Ages, these two notions of right went hand in hand.¹⁶ Beginning in the Renaissance, however, with the triumph of secularism, these two notions were separated and each developed independently. On the one hand, there emerged in modern European political thought a conception of international right, and on the other, there developed utopias of "perpetual peace." In the first case, the order that the Roman Empire had promised was sought, long after its fall, through a treaty mechanism that would construct an international order among sovereign states by operating analogously to the contractual mechanisms that guaranteed order within the nation-state and its civil society. Thinkers from Grotius to Puffendorf theorized this process in formal terms. In the second case, the idea of "perpetual peace" continually reappeared throughout modern Europe, from Bernadin de Saint Pierre to Immanuel Kant. This idea was presented as an ideal of reason, a "light" that had to criticize and also unite right and ethicality, a presupposed transcendental of the juridical system and ideal schema of reason and ethics. The fundamental alternative between these two notions ran throughout all of European modernity, including the two great ideologies that defined its mature phase: the liberal ideology that rests on the peaceful concert of juridical forces and its supersession in the market; and the socialist ideology that focuses on international unity through the organization of struggles and the supersession of right.

Would it be correct to claim, then, that these two different developments of the notion of right that emerged side by side

through the centuries of modernity tend today toward being united and presented as a single category? We suspect that this is indeed the case, and that in postmodernity the notion of right should be understood again in terms of the concept of Empire. And yet, since a large part of our investigation will turn around this question, leading us toward doubts and perplexities, it does not seem a good idea to jump so quickly to a definitive conclusion, even if here we are limiting ourselves only to the analysis of the notion of right. We can already recognize, however, some important symptoms of the rebirth of the concept of Empire—symptoms that function like logical provocations arising on the terrain of history that theory cannot ignore.

One symptom, for example, is the renewed interest in and effectiveness of the concept of *bellum justum*, or “just war.” This concept, which was organically linked to the ancient imperial orders and whose rich and complex genealogy goes back to the biblical tradition, has begun to reappear recently as a central narrative of political discussions, particularly in the wake of the Gulf War.¹⁷ Traditionally the concept rests primarily on the idea that when a state finds itself confronted with a threat of aggression that can endanger its territorial integrity or political independence, it has a *ius ad bellum* (right to make war).¹⁸ There is certainly something troubling in this renewed focus on the concept of *bellum justum*, which modernity, or rather modern secularism, had worked so hard to expunge from the medieval tradition. The traditional concept of just war involves the banalization of war and the celebration of it as an ethical instrument, both of which were ideas that modern political thought and the international community of nation-states had resolutely refused. These two traditional characteristics have reappeared in our postmodern world: on the one hand, war is reduced to the status of police action, and on the other, the new power that can legitimately exercise ethical functions through war is sacralized.

Far from merely repeating ancient or medieval notions, however, today’s concept presents some truly fundamental innovations.

Just war is no longer in any sense an activity of defense or resistance, as it was, for example, in the Christian tradition from Saint Augustine to the scholastics of the Counter-Reformation, as a necessity of the “worldly city” to guarantee its own survival. It has become rather an activity that is justified in itself. Two distinct elements are combined in this concept of just war: first, the legitimacy of the military apparatus insofar as it is ethically grounded, and second, the effectiveness of military action to achieve the desired order and peace. The synthesis of these two elements may indeed be a key factor determining the foundation and the new tradition of Empire. Today the enemy, just like the war itself, comes to be at once banalized (reduced to an object of routine police repression) and absolutized (as the Enemy, an absolute threat to the ethical order). The Gulf War gave us perhaps the first fully articulated example of this new epistemology of the concept.¹⁹ The resurrection of the concept of just war may be only a symptom of the emergence of Empire, but what a suggestive and powerful one!

The Model of Imperial Authority

We must avoid defining the passage to Empire in purely negative terms, in terms of what it is not, as for example is done when one says: the new paradigm is defined by the definitive decline of the sovereign nation-states, by the deregulation of international markets, by the end of antagonistic conflict among state subjects, and so forth. If the new paradigm were to consist simply in this, then its consequences would be truly anarchic. Power, however—and Michel Foucault was not the only one to teach us this—fears and despises a vacuum. The new paradigm functions already in completely positive terms—and it could not be otherwise.

The new paradigm is both system and hierarchy, centralized construction of norms and far-reaching production of legitimacy, spread out over world space. It is configured *ab initio* as a dynamic and flexible systemic structure that is articulated horizontally. We conceive the structure in a kind of intellectual shorthand as a hybrid of Niklas Luhmann’s systems theory and John Rawls’s theory of

justice.²⁰ Some call this situation "governance without government" to indicate the structural logic, at times imperceptible but always and increasingly effective, that sweeps all actors within the order of the whole.²¹ The systemic totality has a dominant position in the global order, breaking resolutely with every previous dialectic and developing an integration of actors that seems linear and spontaneous. At the same time, however, the effectiveness of the consensus under a supreme authority of the ordering appears ever more clearly. All conflicts, all crises, and all dissensions effectively push forward the process of integration and by the same measure call for more central authority. Peace, equilibrium, and the cessation of conflict are the values toward which everything is directed. The development of the global system (and of imperial right in the first place) seems to be the development of a machine that imposes procedures of continual contractualization that lead to systemic equilibria—a machine that creates a continuous call for authority. The machine seems to predetermine the exercise of authority and action across the entire social space. Every movement is fixed and can seek its own designated place only within the system itself, in the hierarchical relationship accorded to it. This preconstituted movement defines the reality of the process of the imperial constitutionalization of world order—the new paradigm.

This imperial paradigm is qualitatively different from the various attempts in the period of transition to define a project of international order.²² Whereas the previous, transitional perspectives focused attention on the legitimating dynamics that would lead toward the new order, in the new paradigm it is as if the new order were already constituted. The conceptual inseparability of the title and exercise of power is affirmed from the outset, as the effective a priori of the system. The imperfect coincidence, or better the ever-present temporal and spatial disjunctions between the new central power and the field of application of its regulation, do not lead to crises or paralysis but merely force the system to minimize and overcome them. In short, the paradigm shift is defined, at least initially, by the recognition that only an established power,

overdetermined with respect to and relatively autonomous from the sovereign nation-states, is capable of functioning as the center of the new world order, exercising over it an effective regulation and, when necessary, coercion.

It follows that, as Kelsen wanted, but only as a paradoxical effect of his utopia, a sort of juridical positivism also dominates the formation of a new juridical ordering.²³ The capacity to form a system is, in effect, presupposed by the real process of its formation. Moreover, the process of formation, and the subjects that act in it, are attracted in advance toward the positively defined vortex of the center, and this attraction becomes irresistible, not only in the name of the capacity of the center to exercise force, but also in the name of the formal power, which resides in the center, to frame and systematize the totality. Once again we find a hybrid of Luhmann and Rawls, but even before them we have Kelsen, that utopian and thus involuntary and contradictory discoverer of the soul of imperial right!

Once again, the ancient notions of Empire help us articulate better the nature of this world order in formation. As Thucydides, Livy, and Tacitus all teach us (along with Machiavelli commenting on their work), Empire is formed not on the basis of force itself but on the basis of the capacity to present force as being in the service of right and peace. All interventions of the imperial armies are solicited by one or more of the parties involved in an already existing conflict. Empire is not born of its own will but rather it is *called* into being and constituted on the basis of its capacity to resolve conflicts. Empire is formed and its intervention becomes juridically legitimate only when it is already inserted into the chain of international consensuses aimed at resolving existing conflicts. To return to Machiavelli, the expansion of Empire is rooted in the internal trajectory of the conflicts it is meant to resolve.²⁴ The first task of Empire, then, is to enlarge the realm of the consensuses that support its own power.

The ancient model gives us a first approximation, but we need to go well beyond it to articulate the terms of the global model of

authority operating today. Juridical positivism and natural right theories, contractualism and institutional realism, formalism and systematism can each describe some aspect of it. Juridical positivism can emphasize the necessity for a strong power to exist at the center of the normative process; natural right theories can highlight the values of peace and equilibrium that the imperial process offers; contractualism can foreground the formation of consensus; realism can bring to light the formative processes of the institutions adequate to the new dimensions of consensus and authority; and formalism can give logical support to what systematism justifies and organizes functionally, emphasizing the totalizing character of the process. What juridical model, however, grasps all these characteristics of the new supranational order?

In first attempting a definition, we would do well to recognize that the dynamics and articulations of the new supranational/judicial order correspond strongly to the new characteristics that have come to define internal orderings in the passage from modernity to post-modernity.²⁵ We should recognize this correspondence (perhaps in Kelsen's manner, and certainly in a realistic mode) not so much as a "domestic analogy" for the international system, but rather as a "supranational analogy" for the domestic legal system. The primary characteristics of both systems involve hegemony over juridical practices, such as procedure, prevention, and address. Normativity, sanction, and repression follow from these and are formed within the procedural developments. The reason for the relative (but effective) coincidence of the new functioning of domestic law and supranational law derives first of all from the fact that they operate on the same terrain, namely, the terrain of crisis. As Carl Schmitt has taught us, however, crisis on the terrain of the application of law should focus our attention on the "exception" operative in the moment of its production.²⁶ Domestic and supranational law are both defined by their exceptionality.

The function of exception here is very important. In order to take control of and dominate such a completely fluid situation, it is necessary to grant the intervening authority (1) the capacity to

define, every time in an exceptional way, the demands of intervention; and (2) the capacity to set in motion the forces and instruments that in various ways can be applied to the diversity and the plurality of the arrangements in crisis. Here, therefore, is born, in the name of the exceptionality of the intervention, a form of right that is really a *right of the police*. The formation of a new right is inscribed in the deployment of prevention, repression, and rhetorical force aimed at the reconstruction of social equilibrium: all this is proper to the activity of the police. We can thus recognize the initial and implicit source of imperial right in terms of police action and the capacity of the police to create and maintain order. The legitimacy of the imperial ordering supports the exercise of police power, while at the same time the activity of global police force demonstrates the real effectiveness of the imperial ordering. The juridical power to rule over the exception and the capacity to deploy police force are thus two initial coordinates that define the imperial model of authority.

Universal Values

We might well ask at this point, however, should we still use the juridical term "right" in this context? How can we call right (and specifically imperial right) a series of techniques that, founded on a state of permanent exception and the power of the police, reduces right and law to a question of pure effectiveness? In order to address these questions, we should first look more closely at the process of imperial constitution that we are witnessing today. We should emphasize from the start that its reality is demonstrated not only by the transformations of international law it brings about, but also by the changes it effects in the administrative law of individual societies and nation-states, or really in the administrative law of cosmopolitical society.²⁷ Through its contemporary transformation of supranational law, the imperial process of constitution tends either directly or indirectly to penetrate and reconfigure the domestic law of the nation-states, and thus supranational law powerfully overdetermines domestic law.

Perhaps the most significant symptom of this transformation is the development of the so-called *right of intervention*.²⁸ This is commonly conceived as the right or duty of the dominant subjects of the world order to intervene in the territories of other subjects in the interest of preventing or resolving humanitarian problems, guaranteeing accords, and imposing peace. The right of intervention figured prominently among the panoply of instruments accorded the United Nations by its Charter for maintaining international order, but the contemporary reconfiguration of this right represents a qualitative leap. No longer, as under the old international ordering, do individual sovereign states or the supranational (U.N.) power intervene only to ensure or impose the application of voluntarily engaged international accords. Now supranational subjects that are legitimated not by right but by consensus intervene in the name of any type of emergency and superior ethical principles. What stands behind this intervention is not just a permanent state of emergency and exception, but a permanent state of emergency and exception justified by *the appeal to essential values of justice*.²⁹ In other words, the right of the police is legitimated by universal values.

Should we assume that since this new right of intervention functions primarily toward the goal of resolving urgent human problems, its legitimacy is therefore founded on universal values? Should we read this movement as a process that, on the basis of the fluctuating elements of the historical framework, sets in motion a constitutive machine driven by universal forces of justice and peace? Are we thus in a situation very close to the traditional definition of Empire, the one promulgated in the ancient Roman-Christian imaginary?

It would be going too far to respond affirmatively to these questions at this early stage in our investigation. The definition of the developing imperial power as a science of the police that is founded on a practice of just war to address continually arising emergencies is probably correct but still completely insufficient. As we have seen, the phenomenological determinations of the new global order exist in a profoundly fluctuating situation that could

also be characterized correctly in terms of crisis and war. How can we reconcile the legitimation of this order through prevention and policing with the fact that crisis and war themselves demonstrate the very questionable genesis and legitimacy of this concept of justice? As we have already noted, these techniques and others like them indicate that what we are witnessing is a process of the material constitution of the new planetary order, the consolidation of its administrative machine, and the production of new hierarchies of command over global space. Who will decide on the definitions of justice and order across the expanse of this totality in the course of its process of constitution? Who will be able to define the concept of peace? Who will be able to unify the process of suspending history and call this suspension just? Around these questions the problematic of Empire is completely open, not closed.

At this point, the problem of the new juridical apparatus is presented to us in its most immediate figure: a global order, a justice, and a right that are still virtual but nonetheless apply actually to us. We are forced increasingly to feel that we are participants in this development, and we are called upon to be responsible for what it becomes in this framework. Our citizenship, just like our ethical responsibility, is situated within these new dimensions—our power and our impotence are measured here. We could say, in Kantian fashion, that our internal moral disposition, when it is confronted with and tested in the social order, tends to be determined by the ethical, political, and juridical categories of Empire. Or we could say that the external morality of every human being and citizen is by now commensurable only in the framework of Empire. This new framework forces us to confront a series of explosive aporias, because in this new juridical and institutional world being formed our ideas and practices of justice and our means of hope are thrown into question. The means of the private and individual apprehension of values are dissolved: with the appearance of Empire, we are confronted no longer with the local mediations of the universal but with a concrete universal itself. The domesticity of values, the shelters behind which they presented their moral substance, the

limits that protect against the invading exteriority—all that disappears. We are all forced to confront absolute questions and radical alternatives. In Empire, ethics, morality, and justice are cast into new dimensions.

Throughout the course of our research we have found ourselves confronted with a classic problematic of political philosophy: the decline and fall of Empire.³⁰ It may seem paradoxical that we address this topos at the beginning, at the same time that we treat the initial construction of Empire; but the becoming of Empire is actually realized on the basis of the same conditions that characterize its decadence and decline. Empire is emerging today as the center that supports the globalization of productive networks and casts its widely inclusive net to try to envelop all power relations within its world order—and yet at the same time it deploys a powerful police function against the new barbarians and the rebellious slaves who threaten its order. The power of Empire appears to be subordinated to the fluctuations of local power dynamics and to the shifting, partial juridical orderings that attempt, but never fully succeed, to lead back to a state of normalcy in the name of the “exceptionality” of the administrative procedures. These characteristics, however, were precisely those that defined ancient Rome in its decadence and that tormented so many of its Enlightenment admirers. We should not expect that the complexity of the processes that construct the new imperial relationship of right be resolved. On the contrary, the processes are and will remain contradictory. The question of the definition of justice and peace will find no real resolution; the force of the new imperial constitution will not be embodied in a consensus that is articulated in the multitude. The terms of the juridical proposal of Empire are completely indeterminate, even though they are nonetheless concrete. Empire is born and shows itself as crisis. Should we conceive this as an Empire of decadence, then, in the terms Montesquieu and Gibbon described? Or is it more properly understood in classical terms as an Empire of corruption?

Here we should understand corruption first of all not only in moral terms but also in juridical and political terms, because accord-

ing to Montesquieu and Gibbon, when the different forms of government are not firmly established in the republic, the cycle of corruption is ineluctably set in motion and the community is torn apart.³¹ Second, we should understand corruption also in metaphysical terms: where the entity and essence, effectiveness and value, do not find common satisfaction, there develops not generation but corruption.³² These are some of the fundamental axes of Empire that we will return to later at length.

Allow us, in conclusion, one final analogy that refers to the birth of Christianity in Europe and its expansion during the decline of the Roman Empire. In this process an enormous potential of subjectivity was constructed and consolidated in terms of the prophecy of a world to come, a chiliastic project. This new subjectivity offered an absolute alternative to the spirit of imperial right—a new ontological basis. From this perspective, Empire was accepted as the “maturity of the times” and the unity of the entire known civilization, but it was challenged in its totality by a completely different ethical and ontological axis. In the same way today, given that the limits and unresolvable problems of the new imperial right are fixed, theory and practice can go beyond them, finding once again an ontological basis of antagonism—within Empire, but also against and beyond Empire, at the same level of totality.