

CHAPTER 6

ON MODES OF PRODUCTION OF SOCIAL POWER AND LAW

INTRODUCTION

My main objective in this chapter is to offer a theoretical framework for our understanding of the relationship between law, power and knowledge—the three main threads of my line of argument in this book. I shall depend on the critique of dominant paradigms presented in Chapter One, in relation to science and common sense, and in Chapter Two and Part Two, in relation to law and state power. The breadth of such a critique makes the alternative constructive work as difficult as it is urgent. This chapter does not pretend to be more than a first step in the right direction. It addresses the following questions. First, the recognition of a plurality of legal orders, forms of power and forms of knowledge in society are the most important results of my critique, both of the modern positivistic state-centered paradigm of law and power, and the modern positivistic science-centered paradigm of knowledge. But merely to recognize the existence of a plurality of legal orders, without grounding it theoretically, implies a triple fallacy: the fallacy of descriptivism (as far as it goes, the list of pluralities is complete; but it could also be added on to indefinitely without any loss of coherence); the fallacy of triviality (the more complete the list, the greater the probability that it will defeat itself as a description of reality: if law, power and knowledge are everywhere, they are nowhere); and finally, if I may borrow Sartre's term,¹ the fallacy of seriality (the list is practico-inert, the relationship among its elements—irrespective of their number—is never more complex than the relationship between people in a queue waiting for the bus). In order to avoid these fallacies, the recognition of pluralities of laws, powers and knowledges must be theoretically reconstructed—a reconstruction that must be self-reflexive also. As an alternative to dominant paradigms, the theoretical work to be done ought to be particularly aware of the likely risk that the development of its principles might betray the principles of its development. In my view, two such principles deserve equal attention: first, the plurality of forms of law, power or knowledge, far from being chaotic or infinite, is

structured and relational; second, the recognition of such pluralities, far from colliding with the idea of the centrality of state law, state power and scientific knowledge in contemporary societies, confirms and relativizes it at the same time by integrating these hegemonic forms in new and broader constellations of laws, powers and knowledges.

The second main question to be addressed in this chapter is the question of the orientation of and obstacles to transformative agency. Critical theory has traditionally tended to be vulnerable to two opposite risks: voluntarism (ad hoc self-justification for any possible course of action) and passivism (such a great discrepancy between the scale of human action and the scale of transformation aimed at that any course of action ends up lacking all credibility). There is a thin line to be walked between these two risks. Among the many available theories designed to keep us on track, Bourdieu's theory of practice² and Giddens's theory of structuration seem to me to be the most useful.³ Before I offer my own alternative, however, I will comment briefly on Bourdieu and Giddens.

My first observation is that a theoretically controlled proliferation of structures is quite adequate to ground transformative agency. Since structures are nothing more than provisional sedimentations of successfully reiterated courses of action, the proliferation of structures broadens the context within which determinations and contingencies, constraints and opportunities are played out, thereby facilitating the formation of multiple coalitions. My second observation is that neither the distinction between structure and agency nor the distinction between underlying phenomena and surface phenomena should be overstressed. To use a physical metaphor, structures are solid moments or marks in the flowing currents of practice, and their (measure of) solidity can only be determined in concrete situations and is bound to change as the situations unfold. Moreover, an underlying phenomenon is not necessarily an unconscious or unaccounted-for component of situational practice. An underlying phenomenon may be so because it has been made to lie under through silencing and forgetting, through different means of knowledge and action suppression. In some situations, such as revolutionary or, more generally, emergency situations, underlying structures are excavated by collective agency and become themselves the surface of practice. A third observation is that structures are not incompatible with a rhetorical conception of knowledge. Indeed, in the following I shall designate structures as *structural places*. Without being necessarily common places, structures are sites of production of common places. As I will show below, they are sites of production of *topoi* and common sense. Once rhetorically reconstructed, structures may be either arguments about solidity and resistance in social practice (about major obstacles which, once overcome, allow for major changes) or premises of argumentation, zones of strong consensus about possibilities of action. My fourth and final observation, related to the previous one, is that structures are places not only in rhetorical terms but also in sociogeographical terms. Each structural place is constitutive of a specific spatiality; the social interactions it calls for and makes possible have a locational reference that gets inscribed in what, through them, is done or thought. In the last two decades, geography has firmly established not only that spaces are socially constituted, but also that social relations are spatially constituted.⁴ This much is taken for granted in this chapter. The double sense in which structures are places

(the rhetorical and sociogeographical sense) suggests an unsuspected complicity between geography and rhetoric, but so far this complicity has not caught the attention of either geographers or rhetoricians.

The third main question to be addressed in this chapter deals with the relations between national societies, the interstate system and world economy. In the wake of the previous chapters, the task is now to theorize, at a more abstract level, many of the insights or conclusions already presented. I have argued that the erosion of state power—specifically in the economic field—does not make the state form less fundamental to the political functions required by the world system, if for no other reason, because the erosion of state power is, more often than not, brought about by state action. I have also argued that the richness of the legal landscape, including, besides the state legal field, local legal fields and transnational legal fields as well, should not be understood as minimizing the centrality of state law in national societies or the centrality of international law in the interstate system. It would seem, then, that the theory to be developed should be able to relate national societies and the world system not as parts of an overarching totality, but as a system of partial totalities, the national societies being, in some respects, more partial than the world system and the world system being, in other respects, more partial than the national societies. Such an approach will allow for cogent analytical descriptions *both* of the national societies *and* the world system, thereby overcoming one of the most resilient dilemmas of current social theory.

In the following, my argument will unfold as an explicit or implicit dialogue with Marxism, Foucault and feminist theory. Before venturing to offer a theoretical alternative, however, I will present a critique of the conceptual orthodoxy that is to a great extent shared by classical liberalism and Marxism. But because, in the previous chapters, I lingered for longer on law and knowledge than on power, a few notes on power and its modes of production are in order at the onset here.

POWER, EMPOWERING, DISEMPOWERING

The relative uncoupling of law and the state argued for throughout this book makes the coupling of law with social power all the more central. At this point, a preliminary dialogue with Foucault seems appropriate. The outstanding merits of Foucault's analysis of power are twofold.⁵ First, drawing on a tradition shared by radical (Nietzsche) and conservative (Burke, historical school) political thinking, Foucault dislocates power from its liberal niche, the state. Since the eighteenth century, says Foucault, the most important form of power circulating in society is produced by society itself, not by the state, and according to rules, principles and mechanisms totally autonomous from the state: this he calls the disciplinary power of modern science, and distinguishes from the juridical power of the modern state. Second, drawing once more on a tradition with a radical (Gramsci) and a conservative side (Parsons), Foucault conceives of disciplinary power as being in total contrast with juridical state power: disciplinary power is a non-zero-sum power, not exercised from the top down nor from a center to a periphery, not based on the distinction of ruler-ruled or master-servant, not based on negation, prohibition or coercion; it is a form of power without center, exercised horizon-

tally, through its own subjects (beginning with the human body); the subjects of such power cannot desire or know but the desires, knowledge or truths of the disciplinary institutions—public and private, schools and hospitals, barracks and prisons, families and factories—which are created as the subjects (not objects) of their own subjection.

As I have already pointed out in the Introduction to Part One, though Foucault is rather confusing about the relationship between these two forms of power, it is clear that, in his view, they are incompatible, and that the scientific, normalizing power of the disciplines has become the most pervasive form of power in contemporary societies. Again, as I have already indicated, Foucault goes too far in overstating the mutual incompatibility between the two forms of power, thereby ignoring the complex circulations of meaning and the possible complicities, articulations and interpenetrations between them. Power is never exercised in a pure, exclusive form, but rather as a power formation, that is, as a constellation of different forms of power combined in specific ways. I would now like to add two further criticisms of Foucault that are specially relevant for the argument of this chapter.

First, although Foucault is correct in positing the existence of power forms outside the state, and in considering them as political in nature as state power, he goes too far in stressing their dispersion, acentrism and fragmentation. Disciplinary powers are everywhere, and they operate in the same way everywhere. Only in a trivial sense is the school different from the hospital, or the hospital from the factory. All of them operate by creating docile bodies and actively desiring and knowledge-seeking subjects. Foucault thus combines an extremely fragmented conception of disciplinary power with an utterly monolithic one. As I said above, if power is everywhere, it is nowhere. If there is no principle of structuration and hierarchy, there is no strategic framework for emancipation. Indeed, Foucault's conception of power offers itself to both blind voluntarism and hyperlucid passivity. In my view, Foucault is forced to think of resistance to power outside his overall conception of power and power relations, as a kind of ad hoc afterthought. In his conception, resistance to power is the ultimate exercise of power. Empowering people is always a way of intensifying their participation in the mechanisms of subjectivity-subjection that subjugate them. For Foucault, then, to empower means ultimately to disempower. My second criticism of Foucault is that his conception of state juridical power is as monolithic as his conception of disciplinary power. In the previous chapters, I presume to have reached two conclusions that question this conception in two fundamental ways. On the one hand, it is wrong, and indeed amounts to falling into the liberal trap, to equate the juridical with the *étatique*. Various nonstate juridical powers circulate in society which actually show better than state juridical power the subtle interpenetrations between juridical and disciplinary power. On the other hand, far from being monolithic, state juridical power is highly heterogeneous and internally differentiated, its plasticity being both the symptom and the measure of its articulation with other forms of power circulating in and constituting social praxis.

These criticisms notwithstanding, Foucault's contribution to our understanding of power in contemporary societies has been invaluable. In the last two decades, the impact of his thought has continued to reverberate, particularly in

feminist theories.⁶ Indeed, the idea of power relations disseminated in society, acted out in nondualistic forms, and exercised mainly through the naturalization of hegemonic representations and identities, was congenial to the radical revision of social and political theory (of liberalism and Marxism, functionalism and positivism) undertaken by feminism in its multiple facets and currents. But feminism, in its turn, has expanded and enriched the Foucaultian conception of power in many ways, two of which are particularly relevant for the theoretical perspective developed in this chapter.⁷ First, by focusing on gender power or gendered forms of power, and their articulation with other forms of power (class, race, age, nationality), feminist theory drew our attention to the internal differentiation of disciplinary power, that is to say, with Iris Young, to the multiple "faces of oppression";⁸ it thus called for richer and more open interfaces of structure and agency, as well as for a sense of directionality which the power-knowledge strategies of Foucault lacked. Second, feminism showed that a general form of power, such as gender power, could be exercised in very different and interlocked forms, some of which were direct emanations of state power, through action or inaction, through decisions or nondecisions, through the exercise of violence or through tolerance in the face of violence, through the command of distributional resources (gendered welfare state) or through the state's general preponderance over Adorno's "administered world." Furthermore, feminism showed that some of the power formations mixed state and nonstate power forms until they became indistinct. In general, we might say that the expansion and enrichment of Foucault's ideas by feminism have been more significant when feminist theories engage with Marxism, rather than discarding it altogether.

What then, is power? At a very general level, power is any social relation ruled by an unequal exchange. It is a social relation because its persistence lies in its capacity to reproduce inequality through exchange, rather than by external diktat. Exchanges may encompass virtually all the conditions determining action and life, personal and social trajectories and projects, such as goods, services, assets, resources, symbols, values, identities, capacities, opportunities, skills, interests. In terms of power relations, what is most characteristic of our societies is that material inequality is deeply interwoven with nonmaterial inequality, particularly unequal learning, unequal representational/communicative and expressive skills, on the one hand, and unequal opportunities and capacities to organize interests and to participate with autonomy in meaningful decision and non-decision making, on the other.⁹

To measure the inequality of an unequal exchange, and to evaluate how determinant it is in affecting the life conditions and trajectories of the people or groups involved in it, is not an easy task, mainly because power relations do not occur in isolation, but rather in chains, sequences or constellations. In a given situation of exercise of power, links in the chain of inequality as diverse as race, sex, class, age, nationality, educational assets and so on, may converge, and although the situation tends to be organized and discursively framed by the nearest link or by the link operating on a high tension mode (more on this below), the nearest link may not necessarily be the most unequal or the most determinant in the set of inequalities that constitute the life trajectory and chances of a given person or social group. For the same reason, what appears interactionally as an external diktat

over a given, otherwise power-free, relation is more often than not a manifestation of the same power constellation in one of its previous and more remote links. That is why people frequently accept as equal what in fact is an unequal exchange. Of course, this disguise of power as equality is an illusion; but because it is necessary as an illusion, it has its grain of truth. This can be observed in two different but convergent processes. The first one shows that power is inherently distributional, but because it is exercised in constellations of power relations which either reinforce or neutralize each other, unequal exchange is, in general, the end result of an unequal distribution of equal (or more or less equal) exchanges. Male and female workers belonging to the same ethnic minority are equal in their relations, that is, they are equal (or more equal) both as members of the same ethnic minority and as workers; but they are unequal (or less equal) in that they are of different genders; yet this combination of equality/inequality is changed into a new combination whenever they relate with male/female workers belonging to an ethnic majority. Moreover, both combinations may change again as they overlap with a third combination emerging out of the relations between all the workers (ethnic minority/ethnic majority, male/female) and their employers who, in turn, may be ethnic majority or ethnic minority, male or female. Actually, the employers' ethnic or gender identity may end up having a much lesser weight in the third combination than the ethnic or gender identity of the workers in the first two combinations. Furthermore, inequalities among workers are experienced by them as being independent of their unequal relations with employers, even though, from a structural point of view, relations among workers, as workers, are premised upon them. As I suggest below, mutually reinforcing or neutralizing inequalities create a pattern of unequal distribution that is difficult to confront precisely because, interactionally, inequalities are often made of unequally relevant equalities.

The second process relates to the fact that power constellations are as much boundary-setting and pathbreaking as distributional. As boundary-setting they are constraining, as pathbreaking they are enabling. All the dualisms anchored in power relations have this double character: thinkable-unthinkable, knowable-unknowable, possible-impossible, allowed-forbidden, desired-rejected, legitimate-illegitimate, included-excluded and so on. The first pole of any of these dualisms is pathbreaking, enabling, while the second pole is boundary-setting and constraining. All relations of power operate both in the *pathbreaking mode* and in the *boundary-setting mode*, but they do not operate always in both modes simultaneously, or with the same relative intensity. Because they are exercised while integrated in constellations of power, and never overlap completely, power relations invest the same situation of power exercise with an asymmetric mixture of constraining and enabling features. A male worker fighting for a better salary, but finding it absurd that a female worker may get the same salary, is thereby exercising (and being exercised upon by) class power in the pathbreaking mode, and gender power in the boundary-setting mode. Conversely, the female worker who fights for equal pay but thinks it absurd or impossible to join forces with male workers in pursuance of common interests against capital, is thereby exercising (and being exercised upon by) gender power in the pathbreaking mode, and class power in the boundary-setting mode. Therefore, the same constellation of power

allows for multiple situations and contexts, in which capacitating exercises combine with constraining exercises. The disconfirmation or dislocation of constraints is only likely to occur when, in the same given situation, different power relations are simultaneously and convergently exercised in the pathbreaking mode. Such a convergence is, in part, made possible by questioning and confronting what makes a given course of action seem impossible, unthinkable, excluded and so on.

Given the intricacy and complexity of power constellations in our societies, it is difficult to think of emancipation in emancipatory terms: more equal exchanges seem to go along with and indeed to confirm unequal exchanges; more capacitating exercises seem only to be possible by accepting and indeed reiterating constraints. But there is nothing mechanical, impeccably functional or fully determined in this. Power constellations are clusters of relations among people and among social groups. Rather than machines, they are like rivers: according to the season or the stretch, they are now dangerous, then amenable, now navigable, then not, now fast, then slow, now flowing, then ebbing, and sometimes changing courses; they are, however, irreversible, never returning to the source. In sum, they are like us, neither chaotic, nor totally predictable.

What makes a social relation an exercise of power is the extent to which the interests of the parties in the relation are unequally dealt with or, more blatantly, the extent to which *A* affects *B* in a manner contrary to *B*'s interests. After having thus defined power, Lukes concludes that "any view of power rests on some normatively specific conception of interests,"¹⁰ this being, in his thinking also, the reason why the concept of power is one of the "essentially contested concepts."¹¹ For a critical theory, however, the concept of power must rest on a concept of emancipation from power relations. Emancipation is as relational as power. There is no emancipation as such, rather there are emancipatory relations, relations that create an ever greater number of ever-more equal relations. Emancipatory relations develop, then, inside power relations, not as the automatic outcome of any essential contradiction, but rather as created and creative outcomes of created and creative contradictions. Only through the cumulative exercise of the enabling mode of power relations (the pathbreaking mode) is it possible to dislocate constraints and change distributions, that is, to transform capacities that reproduce power into capacities that undo it. In order to be effective and non-self-defeating, emancipatory relations must therefore congregate in constellations of emancipatory practices and relations.

The articulation among different emancipatory relations is no easy task, mainly because the capacitation they aim at involves the increment of equality in some relations and the increment of difference in others. To give a current example: in South Africa today, black Africans see their liberation in the right and capacity to decide in which respects they want to be equal to white Africans and in which respects they want to be or remain different. There are, therefore, capacitating and incapacitating differences, as there are capacitating and incapacitating equalities, and the criteria to distinguish amongst them tend to be, in practice, highly contested, if not opaque. There is an inescapable asymmetry between differences and equalities as concerns their relations to emancipation: it is easier to identify an equal exchange of equalities than an equal exchange of differences. Furthermore, because emancipatory relations, like power relations, operate in

constellations, people involved in concrete emancipatory struggles may have to face the task—in general, a highly contested one—of establishing hierarchies among discrepant or even antagonistic clusters or chains of capacitating equalities and differences. As usual, this task is immensely more simple in theory than in practice. An overriding principle of equality (equality that is not just procedural) is needed to allow for capacitation not only through equality but *equally* through difference. I mean a principle of distribution in the widest sense, along the lines of the very broad conception of unequal exchange presented above.

Though I agree with Young that emancipation is enabling justice, I disagree with her criticism of an expanded conception of distribution. She is critical of “the logic of distribution” because it “treats nonmaterial goods as identifiable things or bundles distributed in a static pattern among identifiable, separate individuals,” and argues that “the concept of distribution should be limited to material goods” and not to “other important aspects of justice [which] include decision-making procedures, the social division of labor and culture.”¹² In my view, the risk of reification and individualism is much higher once we confine distribution to material goods, in particular at a time in which the world system seems to have reached full commodification of social life. Even without subscribing to the extreme positions of Baudrillard,¹³ it is increasingly problematic to distinguish between material and nonmaterial goods, and if such a distinction must be upheld—as I think it must—it is theoretically unsound and politically risky to derive from it fundamentally different claims or criteria. Leslie Sklair has convincingly shown that the culture-ideology of consumerism is today deeply entrenched in social groups and societies with no monetary capacity to engage in the practice of consumption.¹⁴ The truth is that the same basic principle of unequal exchange that presides over the uneven distribution of material goods throughout society and the world system also presides over the uneven distribution of material and nonmaterial dimensions of goods in general, with the result that wide social groups are confined to the consumption of nonmaterial dimensions of goods only. The ideology of consumerism without the practice of consumerism—consumption *in absentia*, so to speak.

Distribution and capacitation are, thus, the two sides of emancipation: without changes in distribution, no changes in capacitation, and vice versa.¹⁵ Thus broadly defined, emancipation runs the same risk of trivialization as the concept of power: if emancipation is everywhere, it is nowhere. What this means is that the need for specification, hierarchization and structuration applies likewise to power and emancipatory relations. In an attempt to respond to this need, I present below a theoretical model, a structure-agency map of contemporary capitalist societies as they integrate the modern world system. In my model, I identify six structural clusters of social relations within which six main forms of power, law and commonsense knowledge are produced in capitalist societies. These structural places are orthotopias in the sense that they constitute the core sites of production and reproduction of unequal exchange in capitalist societies; but they are also susceptible of being converted, through transformative agency, into heterotopias, core sites of emancipatory relations. This model aims at replacing the dualism state/civil society and all its corollaries, like the distinction between public and private sphere, the conception of politics as a specialized sector or dimension of

social life, identified with the state, the reduction of law to state law and the concomitant separation of law from politics. This dualism and its corollaries, which are the core of liberal political thought, and have been accepted in a modified version by classical Marxism, I designate as a “conceptual orthodoxy,” to signal that its predominance in contemporary political thought is compatible with its theoretical bankruptcy. I will start by presenting a critique of this conceptual orthodoxy, elaborating on my introductory remarks in Chapter Two.

THE STATE AND CIVIL SOCIETY

It has been said that the dualism state/civil society is the greatest of all dualisms in modern Western thought.¹⁶ In this conception, the state is a contrived reality, an artificial, modern creation, when compared with civil society. In our century, no one has expressed this idea better than Hayek: “Societies form, but states are made.”¹⁷ Culminating the historical process of state formation that started in the post-Westphalia period, the modernity of the nineteenth-century constitutional state was featured in the latter’s formal organization, internal unity, absolute sovereignty in a system of states and, above all, in the unified and centralized legal system, conceived as the universal language through which the state communicated with civil society. In contrast with the state, civil society was viewed as the realm of economic life, of spontaneous social relations guided by private, particularistic interests.

Despite its seeming evidence, the dualism state/civil society was never unequivocal; rather, it was from the start pregnant with contradictions, and bound to be in permanent crisis. The principle of the separation between the state and civil society encompassed both the idea of a minimum and a maximum state, to the same extent that state action was simultaneously conceived as a potential enemy of individual freedom and as the condition of its exercise. The state as a contrived reality was the necessary condition of the spontaneous reality of civil society. Eighteenth-century thought is saturated with this contradiction, since freeing economic activity from the corporatist regulations of the *ancien régime* by no means implies that modern economy will dispense with enlightened state action. Take the Scottish enlightenment thinkers who were converted into doctrinaires of *laissez-faire* by nineteenth-century thought. Of course, the Scottish enlightened thinkers were not doctrinaires of *laissez-faire*. At most, they may be so viewed only retrospectively, that is, *vis-à-vis* the corporatist regulations of the feudal state. They were, on the contrary, keenly aware that modern economy would lead to the emergence of a state with an incommensurably higher potential to influence the lives of people than that of the feudal state. This explains why they were so concerned with developing political arrangements that would prevent the abuse of power, “*les grands coups d’autorité*,” in Montesquieu’s words.¹⁸

This concern pervades the work of Adam Smith,¹⁹ for whom the idea that commerce generates freedom and civilization goes hand in hand with the defense of political institutions that secure a free and civilized commerce. The state is assigned a very active and, indeed, a crucial role in creating the institutional and legal conditions for the expansion of the market.²⁰ As Billet has justly emphasized,

from the first to the last chapter of *An Inquiry Into the Nature and Causes of the Wealth of Nations*, "one is struck by the idea, crucial to Adam Smith's thought, that the character of a nation's political institutions and practices decisively affects its capacity for sustained economic development."²¹ As an example, comparing Portugal and Spain with Britain, Adam Smith considers the despotic nature of the first two states, their "violent and arbitrary government," as responsible for their stagnant economies and relative poverty: "Industry is there neither free nor secure and the civil and ecclesiastical governments of both Spain and Portugal are as such as would be alone sufficient to perpetuate their present state of poverty."²² Still more striking is that, for Smith, despotism may be either the result of an arbitrary government, ruling by force and unrestrained by institutional or legal constraints, or the result of a weak government, an unstable authority incapable of maintaining law and order and performing the regulative functions required by the economy.²³

The idea of the separation of the economic from the political, based on the state/civil society distinction and expressed in the laissez-faire principle, seems to be fraught with two insoluble contradictions. The first contradiction is that, given the particularistic nature of interests in civil society, the principle of laissez-faire cannot be equally valid for all possible interests. Its internal coherence is premised upon an accepted hierarchy of interests, candidly implied in John Stuart Mill's dictum that "every departure from laissez-faire, unless required by some great good, is a certain evil."²⁴ The discussion of the principle always takes place in the shadow of the discussion of the interests to which the principle is to be applied. Thus, the same legal measure may be the object of opposing but equally consistent interpretations. To give an illustration, the joint stock legislation of 1825 to 1865 was viewed by some as a good example of laissez-faire, in that it removed restrictions on the mobility of capital, and by others as a clear violation of laissez-faire, in that it accorded privileges to corporate enterprises which were denied to the individual entrepreneurs.²⁵ This explains why Victorian England has been portrayed by some as the age of laissez-faire, and by others as the embryo of the welfare state.²⁶ The second contradiction concerns the mechanisms by which the principle of laissez-faire is socially activated. The state is a condition of existence and reproduction of capitalist relations which operates through the externality of the state vis-à-vis production. Rather than an omission, this externality is the result of active state-building and state intervention, laissez-faire being one of their possible outcomes. Nineteenth-century England witnessed not only the growth of legislation on social and economic policy, but also the rise of an amalgam of new state institutions, such as the Factory Inspectorate, the Poor Law Board, the General Board of Health and so on, some of which were explicitly intended to carry out laissez-faire policies. As Dicey noted, "sincere believers in laissez-faire found that for the attainment of their ends the improvement and the strengthening of governmental machinery was an absolute necessity."²⁷ As laissez-faire policies were carried out through active state intervention, the state, then as now, had to intervene in order not to intervene.

In view of all this, the question emerges: if the state/civil society distinction has always been so pregnant with contradictions, why is it so widely accepted, so self-evident and even commonsensical? Before trying to answer this question, and

because the issue is important for the development of my argument, I would like to illustrate briefly the weight of this conceptual orthodoxy within Marxism itself. Leaving aside eighteenth-century English and French liberal political theory, and focusing solely on the nearest background of Marx's thought, the German context, it might be useful to recall that, according to Hegel²⁸ in his most Hegelian moment, civil society, rather than diametrically counterposed to the state, is a transitional stage in the development of the idea, the final stage being the state. The family is the thesis, civil society is the antithesis, and the state is the synthesis. Civil society is the "system of needs," the destruction of the unity of the family and the atomization of its members; in sum, the realm of particularistic interests and of egotism, a stage to be superseded by the state as the ultimate unifier of interests, the universal idea, the most final completion of moral consciousness.²⁹ There are, thus, two lines in Hegel's thought about the state and civil society. One, very much subsidiary to English and French liberal thought, is the conceptual distinction between state and civil society in terms of contradictory entities. The other, distinctively Hegelian, is the idea that the concept of civil society is not on an equal footing with (on the same speculative level as) the concept of the state. It corresponds to a lesser-developed stage of consciousness actually to be superseded by the state, which means that the dichotomy of state and civil society as two autonomous, self-identical concepts is theoretically untenable. Though the latter line, in spite of its idealistic and ideological content, is still, in my view, very important today to understand some of the historical and social processes of capitalist societies, it was abandoned in the philosophical and historical controversies that followed Hegel's work. The reification of the dichotomy state/civil society was soon accomplished, mainly through the writings of Lorenz von Stein II.³⁰

Notwithstanding the brilliant rescue attempt undertaken by Max Adler,³¹ I believe that Marx accepted the reified version of the state/civil society distinction. He inverted but did not supersede it. He discovered that the allegedly "natural" laws of classical economy hid social relations of exploitation, which the state, only apparently neutral, had the function to guarantee. Rather than universal social interest, the state represented, according to Marx, the interest of capital in reproducing itself. However, because he was concerned with meeting classical economy on its own terms, Marx ended up trapped in the distinction between economy and politics, or, at least, he did not push the critique of this distinction to its conclusion, and indeed tended to reduce politics and law to state action. What Marx failed to see was the real (and not merely metaphorical) sense in which "economic relations" were not only social, but also distinctively political and legal relations in their structural constitution. Thus, the metaphor of the economic base grounding the political and legal superstructure is not a complete distortion of Marx's thought, as can be demonstrated by its remarkable resilience in subsequent attempts to reconstruct the question it meant to address. One of such attempts, by far the most influential within Western Marxism in the last twenty years, is the French structuralist Marxism of Althusser and his group—with its theory of relatively autonomous instances (the economic, the political, the ideological), the concept of overdetermination and the principle of economic determination in the last instance. The bias of economism is still present in this school, and it is rather visible in the work of Poulantzas,³² without

any doubt the most brilliant analyst of law and politics in this school. In his analysis of the relation of property as one of the elements of the economic instance, for example, Poulantzas says: "It should be noted that [the relation of property] belongs strictly to the region of the economic and that it should be clearly distinguished from the juridical forms with which it is invested, i.e. from juridical property."³³ He also criticizes Maurice Godelier for ignoring that "the relations of production and the productive forces belong to the same combination/structure of the economic whereas private (juridical) ownership of the means of production belongs to the superstructure."³⁴ Though Poulantzas changed his view on this in his later work,³⁵ this formulation, which first appeared in 1968, remained by far the most influential.

How to explain the self-evidence of the conception of the economic as a separate and autonomous realm and of the correspondent conception of the political and legal as an exclusive attribute of the state? How to explain the persistence of the state/civil society dichotomy in spite of its internal contradictions and permanent crises? As with any other social doctrine, this conceptual orthodoxy has a shred of truth. In feudalism, necessary labor (that is, the labor required for the subsistence of the serfs) and surplus labor (that is, the labor performed by the serfs to guarantee the subsistence and accumulation of the feudal lords) were separate both in time and in space. Because feudal lords did not own the means of production, they had to rely on the political and legal institutions of the state to extract the surplus labor from serfs. In a way, since feudal lords had no private ownership of the means of production, their social power was most directly linked to their private ownership of the state. In capitalism, on the contrary, necessary and surplus labor take place within the same labor process, given the control over the latter by capitalists as an attribute of their ownership of the means of production. Once the state guarantees the enforcement of the law of property, class relations occur and reproduce themselves in the private realm of the factory. It seems, therefore, that the externality of the state vis-à-vis the relations of production is the correlate of the conceptualization of production relations as an economic, private affair between private individuals within the civil society.

On further reflection, this derivation is not logically necessary. Without questioning the externality of the political and legal institutions of the state vis-à-vis the relations of production, it should be equally logical to conceive these relations inside the factory as a set of political and legal social processes taking place outside the state, under the direct control of capital. And indeed, it would not be difficult to detect legislative bodies, power blocks, coalitions, legal regulations, dispute settlement mechanisms, positive and negative sanctions, police surveillance and so on inside the factory, or, more generally, inside the production sites. Why was this alternative conceptualization of factory and production experience not adopted? Why was this extreme variety of social processes lumped together in the amorphous concept of "economic relations?" To my way of thinking, the separation of the economic from the political made possible both the naturalization of capitalist economic exploitation, and the neutralization of the revolutionary potential of modernity as a political project—two processes that converged to consolidate capitalist social relations. If, by an exercise of imagination, we compare social relations across time, it is in the field of political relations that capital-

ist societies most unequivocally represent a civilizational progress. For the first time in history, the constitutional state has become truly public, that is, not the private legal possession of any specific group.³⁶ The formal universalization of citizenship through equal civil and political rights made the state, in all its theoretical attributes, the ultimate consubstantiation of the democratic ideal of equal participation in social affairs. If, on the contrary, we take production relations in capitalist societies, the picture is almost the negative of the previous one. We may still grant to capitalism a tremendous progress in terms of technology of production, but concerning the social relations in production we are led to conclude, with Meiksins Wood, that "in no other system of production is work so thoroughly disciplined and organized, and no other organization of production . . . so directly responsive to the demands of appropriation."³⁷ This unprecedented control over production is what Marx called the despotism of the workshop,³⁸ and Braverman, the degradation of the labor process.³⁹

In my view, and as I will further argue below, the dichotomy economy/politics was essential to keep these two pictures incomparable or incommensurable. It kept them separate in such a way that the political form of social relations could never become the model for the economic form of social relations. Confined to the public place, the democratic ideal was neutralized or strongly limited in its emancipatory potential. On the other hand, the conversion of the public place into the exclusive site of law and politics performed a crucial legitimization function, by obscuring the fact that the law and the politics of the capitalist state could only operate as part of a broader political and legal configuration in which other contrasting forms of law and politics were included. In the periphery of the world economy, in the colonies at first, and later in the newly independent, less-developed, peripheral countries, the shred of truth of the dichotomy state/civil society was even smaller. Here, civil society was, from the start, a product of the state in the most direct sense. Even more than in the metropolitan countries, the creation of the labor force was an administrative issue for the colonial state or for the quasistate colonial companies. Moreover, the persistence of precapitalist modes of production, submitted to capital through market mechanisms but autonomous in terms of the organization of production, called for the direct political control of surplus appropriation, and thus for the privatization of state power and state functions, as illustrated in *coronelismo* (in Brazil) and *caudillismo* (in Spanish-speaking Latin America). Notwithstanding these differences, the state/civil society dualism, whenever proclaimed, tended to perform basically the same function throughout the world system: as the production of politics got confined to the state, the politics of production could be pursued unencumbered by the juridical and political principles that purported to inform the public sphere. Thereby, the publicization of the state, which was the other side of the privatization of production, became incommensurable with the latter. This analysis should not, however, be understood in functionalist terms. Oftentimes, particularly in the periphery and semiperiphery, the state/civil society dualism has been used for progressive purposes, namely as an ideological tool against the authoritarianism of the state. What is at stake here is not the reproduction of specific political regimes, but rather the reproduction of the regime of the incommensurability between politics and everything else.

In light of the crisis of the welfare state in the core of the world system, the collapse of Communist or state-socialist regimes in the semiperiphery and periphery, and the rise of neoliberalism on a global scale, it is today more imperative than ever to present a credible alternative to the conceptual orthodoxy of the state/civil society dualism. This is no easy task. The resilience of a given conceptual orthodoxy is that it overflows beyond its boundaries and in different directions, creating loyalties both on the right and on the left of the political spectrum. The most characteristic feature of any orthodoxy is to naturalize itself, to become evident, commonsensical knowledge. Any posited alternative is bound to be less than credible. Alternatives tend to be viewed as unrealistic, either because they are outright utopian, or because they are, on the contrary, so infiltrated by the dualism they criticize that they reproduce it in a different way. In either case, alternatives are considered to be highly political and essentially contested. Aware of these difficulties, I present the following model as a first attempt to create a new political, legal and epistemological common sense.

A STRUCTURE-AGENCY MAP OF CAPITALIST SOCIETIES IN THE WORLD SYSTEM

My main argument in this section runs as follows. First, capitalist societies are *political* formations or constellations, constituted by six basic modes of production of power articulated in specific ways. These modes of production generate six basic forms of power which, though interrelated, are structurally autonomous. Second, capitalist societies are *legal* formations or constellations, constituted by six basic modes of production of law articulated in specific ways. These modes of production generate six basic forms of law which, though interrelated, are structurally autonomous. Third, capitalist societies are *epistemological* formations or constellations, constituted by six basic modes of production of knowledge articulated in specific ways. These modes of production generate six basic forms of knowledge which, though interrelated, are structurally autonomous.

Basic to this argument is the idea that the political nature of power is not the exclusive attribute of any given form of power, but rather, the global effect of the combination of different forms of power and of the modes of production thereof. Similarly, the legal nature of social regulation is not the exclusive attribute of any form of law, but rather the global effect of the combination of different forms of law and of the modes of production thereof. Finally, the epistemological nature of knowledge practices is not the exclusive attribute of any given epistemological form, but rather the global effect of the combination of different epistemological forms and of the modes of production thereof.

Table 3 shows in a synoptic form the structure-agency map of capitalist societies as integrating the world system. I distinguish six structural places: the householdplace, the workplace, the marketplace, the communityplace, the citizenplace and the worldplace. They constitute the most basic and most sedimented clusters of social relations in contemporary capitalist societies. The distinction and the structural autonomy of the six structural places are the result of a long historical process, and even today they present themselves differently in the core, the periph-

Table 3 Structure-Agency Map of Capitalist Societies in the World System

Dimensions Structural Places	Social Agency	Institutions	Developmental Dynamics	Power Form	Legal Form	Epistemological Form
<i>Householdplace</i>	gender, generation	marriage, family, kinship	affection maximizing	patriarchy	domestic law	familialism, familial culture
<i>Workplace</i>	class, nature as "capitalist nature"	factory, corporation	profit maximizing, maximizing the degradation of nature	exploitation, "capitalist nature"	production law	productivism, technologism, professional training, corporate culture
<i>Marketplace</i>	consumership	market	utility maximizing, maximizing the commodification of needs	fetishism of commodities	exchange law	consumerism, mass culture
<i>Communityplace</i>	ethnicity, race, nation, people, religion	community, neighborhood, region, grassroots organization, church	identity maximizing	unequal differentiation	community law	local knowledge, community culture, tradition
<i>Citizenplace</i>	citizenship	state	loyalty maximizing	domination	territorial (state) law	educational and cultural nationalism, civic culture
<i>Worldplace</i>	nation-state	interstate system, international agencies and associations, international treaties	effectivity maximizing	unequal exchange	systemic law	science, universalistic progress, global culture

ery and the semiperiphery of the world system due, to a great extent, to the different historical trajectories into Western modernity.⁴⁰

The identification and characterization of the structural places are guided by a few theoretical orientations that must be mentioned at this juncture. The first one is an analytical emphasis on the questions of power, law and knowledge. The social contexts of these phenomena, their internal differentiation, and the articulations among them must be highlighted. Critical sociological theory has rarely tried to analyse these three megaphenomena of our time in conjunction with and within the same theoretical analytical framework. Foucault was, of course, the social theorist who made the most sustained effort in the right direction, but even he decided to leave out or, at least, neglect law. His narrow conception of law as state law led him to see it as an anachronistic phenomenon, a residue of past forms of domination. The analytical framework presented in this chapter is an attempt at a more inclusive approach, an approach that includes power, law and knowledge on an equal analytical footing, without collapsing them into reductive totalities—as has happened in so much critical social theory—rather expanding the range of differentiation and fragmentation and highlighting the threads networking them.

The second theoretical orientation is that the characterization of the structural places must emphasize the multiple dimensions of inequality and oppression in contemporary capitalist societies and in the world system as a whole, so as to map out new, possible fields for relevant emancipatory struggles. Privileged sites of inequality and oppression must, accordingly, be identified and conceived as impure, unstable, incomplete, asymmetric and heterogeneous, each one depending on all the others to guarantee its social efficacy.

Closely connected with the previous orientation, the third one is that the centrality of state power, state law, and modern science must neither be neglected nor mistaken as a totality or as a monopoly. The three are pervasive in the respective constellations of power, law and knowledge that emerge in concrete social fields, but they always operate in articulation with various nonstate forms of power and law, and with various forms of nonscientific knowledge. The final theoretical orientation is that the analytical framework must be as little corecentric or Western-centric as possible, in order to promote genuine comparisons across the world system. Marxist and critical social theory in general were for many decades centered on core capitalist societies, having created an impressive body of knowledge on what, in my analytical framework, is designated as the workplace and the citizenplace. As we well know today, the exclusive concentration on these two clusters of social relations—without any doubt crucial to understand capitalist societies—left out of the analytical scope other equally important aspects of capitalist social production and reproduction. Critical feminist theory is to be credited for bringing the householdplace into consideration, and for offering a radical revision both of the workplace and the citizenplace. This significant analytical expansion has, however, been largely confined to the analysis of national societies, more often than not, core capitalist societies.

Dependency theory, first, and the world system theory, later, broke with this status quo by drawing our attention to peripheral societies and their integration in a world system comprising peripheral, core and semiperipheral societies

ordered according to a major hierarchical principle—the international division of labor. With its emphasis on global interactions and hierarchies, the world system theory has, however, tended to provide relatively crude and reductionist analyses of individual national societies and locally or nationally based social processes. To counteract this tendency, the world system, in the form of the worldplace, is conceived here as an internal structure of national societies. The worldplace is the cluster of local or national social relations in which the world system is inscribed by means of pertinent effects (the sum total of globalized localisms and localized globalisms analyzed in Chapter Four). This internalization of the world system, I believe, allows for a more productive dialogue between the theoretical perspectives and analytical insights developed by the world system theory and those traditionally developed by the social theories specifically concerned with the other structural places.

Furthermore, the analytical framework proposed here is not only designed to account for the multiple inequalities in the world system, as they exist today, but also for the different and unequal historical trajectories into modernity. Accordingly, as one of the structural places, I identify the communityplace. It may be surprising to consider the communityplace, which is grounded on the idea of physical or symbolic territory, as an autonomous structural place. It is usually argued that, in light of its territoriality, the hegemonic claim of the modern state to exclusive control over a given territory has brought about the collapse of the communityplace into the citizenplace. Having in mind the historical processes of state formation in most peripheral and semiperipheral societies, I argue alternatively that the communityplace has remained, throughout the world system, an autonomous site of social relations irreducible to the social relations clustered around the citizenplace. This is quite evident in the case of multinational states emerging out of European colonialism, but is also visible elsewhere. Even in Western core societies, the communityplace has remained as subtext of the citizenplace, surfacing in periods of crisis of the state. In Islamic states organized on the basis of a fundamentalist interpretation of the Qu'ran, it can even be argued that, in opposition to the Western experience, the citizenplace has collapsed into the communityplace.⁴¹ Throughout the world system, the communityplace entertains complex relations with all the other structural places. For instance, in societies in which Hinduism or Confucianism is the organizing principle of the communityplace, the latter is deeply intertwined with the householdplace (to tender the domestic altar).⁴²

As I suggest above, while the conception of communityplace has the historical and social realities of the periphery particularly in mind, the conception of marketplace as a structural place has the historical and social realities of the core particularly in mind. However mistaken in some fundamental ways, the different theories that describe the dramatic transformations of core capitalist societies in the last three decades in terms of postcapitalism, postindustrialism, postmodernism or consumer society can be said to have a grain of truth. They have drawn our attention to the ideological expansion of the fetishism of commodities as a form of power leading to a new form of hegemony. This new hegemony somehow inverts the logic of capitalist accumulation by converting commodities into more-than-commodities through ideological surplus values generated by the compulsive practice of commodification of needs and their satisfaction. In my opinion, the

relatively autonomous social production of consumption and consumerism has not structurally changed capitalist societies, but it has made them more complex. Consumption is no longer an epiphenomenon. It is, rather, an autonomous structural site of social relations, a new form of power, legality and knowledge. This structural feature, however grounded in the social practices of core societies, is also present, in modified or selective forms, in peripheral and semiperipheral societies: the culture-ideology of consumerism is already much more widely distributed throughout the world system than the practice of consumption, and indeed seems to go on expanding even as the latter shrinks.

READING THE STRUCTURE-AGENCY MAP

Social interaction in capitalist societies centers around six modes of production of social practice, the six structural places. At the most abstract level, a mode of production of social practice is a set of social relations whose internal contradictions endow it with a specific endogenous dynamic. It is, therefore, a complex interaction field resting on six dimensions: social agency, institutions, developmental and interactional dynamics, power form, legal form, and epistemological form. The specificity of each structural place lies in the form of unequal exchange that marks the social relations it constitutes. As it unfolds, this relational inequality produces a specific form of capital whose reproduction invests the social field with an interaction style and sense of directionality of its own. Though it is specific and endogenous, this logic is, however, not self-contained, insofar as social relations are as determined by their structural location as by their articulations (combinations, mutual interferences, interfaces and interpenetrations) with social relations in other structural locations. Phenomenologically speaking, the developmental logic of a specific structural place is but a sustained form of hybridization. Such hybridization is neither chaotic nor infinite, because the structural places are limited in number and concrete in internal specification. Before elaborating further on the problem of structural determination, I will describe in some detail the nature of the social relations constitutive of each one of the structural places.

The Structural Places and their Dimensions

The *householdplace* is the cluster of social relations of production and reproduction of domesticity and kinship, between husband and wife (or otherwise-defined partners in comparable types of relations), between either and the children, and among kin.⁴³ The *workplace* is the set of social relations clustered around the production of economic exchange values and of labor processes, relations of production *strictu sensu* (between direct producers and appropriators of surplus value, and between both and nature) and relations in production (between workers and management and among workers). The *marketplace* is the cluster of social relations of distribution and consumption of exchange values whereby the commodification of needs and satisfiers is produced and reproduced. The *communityplace* is constituted by the social relations clustered around the production and reproduction of physical and symbolic territories and communal identities and identi-

fications. The *citizenplace* is the set of the social relations that constitute the "public sphere" and, in particular, the relations of production of the vertical political obligation between citizens and the state. In Chapter Two, while analyzing the pattern of normal change, I described the citizenplace in detail through the operations and strategies of its institutional form, the state. Finally, the *worldplace* is the sum total of the internal pertinent effects of the social relations through which a global division of labor is produced and reproduced. The conceptualization of the worldplace as an internal structure of a given (national, local) society aims at rendering theoretically consistent the interactions between the global dynamics of the world system, on the one hand, and the extremely diverse and highly specific conditions of national or subnational societies across the globe, on the other. The worldplace is, therefore, the organizing matrix of the pertinent effects of world conditions and world hierarchies upon the household-, work-, market-, community- and citizenplace of a given society.

Each of these six structural places is complex, and consists of six dimensions. Since in any concrete social field, the structural places always operate in constellations, each dimension of each structural place is in some way present in any other correspondent dimension of any other structural place. For instance, the privileged form of agency in the householdplace is gender and generation, but this, of course, does not mean, as feminist theories have so persuasively shown, that gender and generation are confined to the householdplace. On the contrary, to take the case of gender, gender combines specifically with class in the workplace, consumer agency in the marketplace, race, ethnicity or religion in the communityplace, citizenship in the citizenplace and nation-state agency in the worldplace. The same can be said of any other dimension. Although the state is the privileged institutional form of the citizenplace, it is present in different ways in all the other structural institutions, be they the family, the corporation, the market, the community, or the interstate system. And the same is true of any of them vis-à-vis the state. Some states are run as extended families, particularly in countries in which *coronelismo* or *caudillismo* and other forms of privatization of the state are prevalent (as, for instance, in the Middle East dynastic regimes). When, for instance, the public health system of a given core country undergoes reforms that aim at creating internal markets within the state bureaucracy (as appears to be currently the case in the United Kingdom and, in a different form, in the U.S.), the new institutions are mixes of market and state. In countries of the periphery of the world system in which foreign aid has become a disproportionate percentage of national income (twenty-eight percent in the Cape Verde Islands, eighty percent in the São Tomé and Príncipe Islands, seventy-seven percent in Mozambique), the state is, for most relevant purposes, an institutional mix of state and international agencies.

In the following, I will engage in a brief general description of the different dimensions of the structural places, paying closer attention to those whose identification seems more problematic. Those with greater analytical interest for this chapter, that is, forms of power, law and knowledge, will be also stressed below.

Social agency is the active dimension of the structural place, the privileged organizing principle of collective and individual action, the main criterion of identity and identification of individual and social groups engaged in social rela-

tions clustering around that particular structural place. It may seem surprising to identify the social agency of the workplace as both class exploitation and exploitation of nature ("capitalist nature"). In Chapter One I presented an epistemological critique of modern science and its conception of nature as *res extensa* with no subjectivity or dignity, a spontaneous mechanism regulated by mechanical laws, an infinite resource to be explored/exploited at human will. I also pointed out that, as modern science became interlocked with industrial capitalism and was converted into a force of production, such a conception of nature became an ideological legitimation for the conversion of nature into a condition of production, both as "natural resources" and "natural environment." That epistemological critique must now be complemented by a theoretical alternative.

Though the "robbing" of the earth was considered by Marx as one of the conditions of capitalist wealth, the other being the exploitation of labor, and though the destruction of the environment has long been recognized as an inevitable consequence of capitalist accumulation and market expansion,⁴⁴ Marxists have, until recently, paid little attention to the ecological hubris of capitalism; in any case, they have found its integration in the political economy of capitalism difficult to figure out. This oversight or difficulty is, of course, less than contingent or fortuitous. It is anchored in the ideology of productivism, scientism and progress as infinite economic expansion, which has dominated both classical Marxism and classical liberalism. In the last two decades, however, some efforts have been made to integrate the exploitation of labor and the destruction of nature within the same contradictory developmental dynamics of capitalism.

One of the most sustained efforts has been made by O'Connor.⁴⁵ Following an approach that he himself defines as "Polanyist-Marxist,"⁴⁶ O'Connor claims to develop an "ecological Marxism" as a method to theorize the new social movements within a broad Marxist framework. In his conception, capitalism, as a mode of production, unfolds through two contradictions. The first contradiction is symbolized by the rate of exploitation, and expresses capital's social and political power over labor, as well as capitalism's inherent tendency toward a realization crisis (a crisis of overproduction). The second contradiction centers around the category of "the conditions of production," meaning by that "everything that is treated as if it is a commodity even though it is not produced as a commodity in accordance with the law of value or law of markets";⁴⁷ such a broad definition enables O'Connor to discuss labor power, land, nature and urban space under the same general category. The second contradiction, which expresses itself as an underproduction crisis of capital, resides in the tendency of capital to impair or destroy its own conditions of production, whereby the recurrent crises of the cost-push type lead to further attempts to restructure the conditions of production in order to reduce costs: "when individual capitals lower costs, i.e. externalize costs on to nature (or labor or the urban) with the aim of defending or restoring profits, the unintended effect is to raise costs on other capitals (at the limit, capital as a whole) and lower profits."⁴⁸ Capitalism has thus a tendency to appropriate, and use self-destructively, labor power, space, and external nature and environment. The second contradiction, though it requires separate theorization, is dependent on the first:

if we regard the rate of depletion and pollution of nature as dependent on the rate of accumulation and rate of profit, increases in the rate of labor exploitation will increase the profit and accumulation rates, and hence the rates of depletion and pollution. The more capital exploits labor, the more it exploits nature and vice versa.⁴⁹

O'Connor's reconstructive attempt raises several problems (Is the second contradiction a real contradiction? Are the two contradictions not rather two aspects of the same contradiction? and so on), but its general outlook and direction are basically sound. It calls for a deeper understanding of emancipatory anticapitalist struggles in which the "subjectification of labor" cannot be achieved with the "subjectification of nature" and vice versa. Accordingly, in order to account for a more complex understanding of capitalism and of anticapitalism, the social agency of the workplace is conceived here as consisting both of class and of "capitalist nature," that is, of class relations and of capitalist relations of and over natural use values.

The *institutional* dimension of the structural places refers to the organization of repetition in society, that is to say, to the forms, patterns, procedures, apparatuses or schemes which organize the constant flow of social relations in repetitive, routinized and normalized sequences, whereby interaction patterns develop and are "naturalized" as necessary, irreplaceable and commonsensical. The different institutions in Table 3 are relatively straightforward, and need not be elaborated on here.

The *developmental dynamics* refers to the directionality of social action, the local principle of rationality that defines and grades the belongingness of social relations to a particular structural place. The developmental dynamics of the householdplace is one of the most central cathectic orientations in society. The reproduction of gender and generation relations is achieved by the concentration of emotional energy (affection maximizing) on ideas and stereotypes of family life and family relations. On the contrary, the internal principle of the workplace is arguably the most anticathectic orientation in social relations. The logic of capital accumulation involves the maximization of surplus values extracted both from labor power in wage relations, and from nature as a condition of production. In the marketplace, the incommensurability between needs and satisfiers is eliminated by the potentially infinite commodification of both, however regulated by the reduction of demand to solvent demand. This logic has also a cathectic component, operating through the transformation of things into surrogate personalities, which are then objects of emotional investment. The developmental dynamics of the communityplace shares with that of the householdplace a strong cathectic dimension and, indeed, in some societies the two dynamics are hardly distinguishable. The former is based on a potentially endless excavation into primordial communalities and roots, upon which radical claims for inclusion (and, conversely, for exclusion) are formulated. The developmental dynamics of the citizenplace shares some features with that of the communityplace, and the competition between them underlies the most intractable tensions in the interstate system. Both dynamics operate by defining membership, drawing circles of reciprocity in bounded physical or symbolic territories. But while the citizenplace dynamics is organized by the vertical political obligation, the communityplace dynamics tends to be organized by the horizontal political obligation. The citizenplace, though grounded on coercion,

maximizes its potential development through legitimation and hegemony; whereas the communityplace is endowed with original legitimacy, but often resorts to coercion to maximize its potential development. While the cathetic component of identity maximizing tends to abound, the cathetic component of loyalty maximizing is inherently lacking, and must be constantly reproduced by the symbolic state (nationalist civic culture; the flag, the national anthem, national holidays; subliminal or explicit transfusions of identity maximizing into loyalty maximizing). Finally, the developmental dynamics of the worldplace and the workplace are symbiotic and reciprocal. One presupposes the other. Indeed, they are two relatively autonomous aspects of the same logic of capital accumulation: the hierarchies established in the workplace by the extraction of surplus values are unevenly distributed throughout the world system by virtue of the global division of labor. They thus also become hierarchies among countries, societies, regions and peoples. The relative autonomy of the two aspects derives from the specific political form of the world system, an interstate system of sovereign states, whereby states cannot extract surplus values from other states. Leverage and effectivity permit the smooth unfolding of the global division of labor and the unequal exchanges that keep the hierarchies of the world system in place.

Since the structural places only operate in constellations, social actions are often informed by different and mutually incongruent logics, which means that each developmental dynamics is partial. Each one of them is also grounded on a specific contradiction, a relation between entities that tend to negate each other, and whose unfolding generates, for that reason, inescapable asymmetries and inequalities: between genders and generations; between employers and workers, and between both and nature; between commodification of needs and solvency; between inclusion in and exclusion from the community and the reciprocity circle; between private and public interests; between individuality and mass loyalty; between one state national interest and another (creditors and debtors, the core and the periphery). Partial contradictions constitute concrete social fields by constellating in different ways, normally around one particular contradiction, but involving all the others. The degree of isomorphism among different contradictions varies across time and space. Depending on the country or the period of time, the developmental logics of the communityplace and citizenplace may now coalesce, now conflict; the householdplace and the workplace logics may be more or less deeply intertwined; the citizenplace logic may support, supplement or contradict the logic of any of the other structural places. Discounting his populist scientism, Engels was not totally off the mark when he suggested in the *Anti-Dühring* (a mere suggestion, not a "general law") that opposites interpenetrate and that, as a result, any entity is constituted by an unstable unity of contradictions.⁵⁰ For our purposes here, it is necessary to analyze in greater detail the ways in which partial contradictions express themselves in forms of power, law and knowledge.

Forms of Power

All forms of power constitute unequal exchanges. Different forms of unequal exchange give rise to different forms of power. I distinguish six forms of power circulating in capitalist societies. All of them tend to be present, in one way or

another, in concrete social fields and the different constellations of power they form, but each one of them has a privileged niche in one of the six structural places. *Patriarchy* is the privileged form of power of the householdplace. This means that, though they are always constellations of power, the social relations clustered around the householdplace (housework, reproduction, mutual care, property management, child-rearing, leisure and so on) tend to be organized by patriarchy as a system of male control of women's social reproduction. But it does not imply that the householdplace is necessarily the most important site of the oppression of women in capitalist societies. It may or may not be, perhaps in some societies or in certain periods, but not in other societies or in other periods. Though it is the privileged form of power in the householdplace, patriarchy is also present in the constellations of power of social relations clustered around the workplace, the marketplace, the communityplace, the citizenplace and the worldplace, and its strongest impact on the life experiences of household members may occur, according to specific circumstances, in either of these structural places. For Saudi Arabian women it may be located in the householdplace, for North American women, in the workplace⁵¹ and marketplace, for Swiss women, in the citizenplace, for Indian and African women, in the communityplace.⁵²

Exploitation, as defined by Marx, is the privileged form of power of the workplace. However, to signal the double contradiction in capitalist production (exploitation of labor and degradation of nature), to exploitation I add "capitalist nature," that is, nature as a historical and social construction jointly "produced" by modern science and capitalism. The articulation between this form of power and other forms of power, namely patriarchy⁵³ and domination, is one of the core debates in social theory today. In general, what was just said about constellations of power with reference to patriarchy can equally be said with reference to exploitation, but the issue of structural determination will call for further specification below. At this point, in order to illustrate the virtualities of an expanded conception of exploitation that includes capitalist nature, I would like to draw attention to the emergence of new links between the degradation of nature and the degradation of women's lives, that is to say, between (expanded) exploitation and patriarchy. Recent studies on specific exploitation of poor and tribal women in non-Western societies⁵⁴ and, more generally, studies on eco-feminism have convincingly demonstrated that capitalist nature, be it in the form of chemicalization of agriculture, deforestation, dam construction, privatization of water resources, water scarcity and so on, victimizes and excludes women in a particularly intense way.⁵⁵ Furthermore, the social construction of woman as nature or as close to nature (corporeality, sensuousness) allows for an insidious isomorphism between domination of nature and domination of women.⁵⁶

Fetishism of commodities is the form of power of the marketplace; I use it in much the same way as Marx. As they acquire autonomous qualities and meanings that reach beyond the narrow economic sphere, commodities tend thereby to negate the consumers who, as workers, are also their creators. Because the autonomy of commodities is obtained at the cost of the autonomy of the consumer as a social actor (both as creator of commodities and as a free consumer), the consumer is transformed, through the fetishism of commodities, from a subject of consumption into an object of consumption, from a creator into a creature. As

Marx says, "the consumer is not freer than the producer. His judgment depends on his means and his needs. Both of these are determined by his social position, which itself depends on the whole social organization."⁵⁷ In a commodity-producing society, such social organization engenders both the "reification of persons" (labor power as a commodity) and the "personification of things." By personification of things is meant the fact that, as workers become subordinate to market relations, commodities become godlike fetishes, thereby transforming their own creators into their creatures. Market domination and control is possible because commodities function as fetishes. Thus fetishism of commodities is intimately interlocked with exploitation, and the type of alienation it gives rise to may be simply viewed as the "qualitative side" of exploitation. But to my way of thinking, it must be considered as a separate form of power. On the one hand, through its cultural transformation, fetishism of commodities reaches far beyond exploitation. Converted into a semiotic system globally diffused by cultural imperialism, fetishism of commodities is often an outpost of capitalist expansion, the messenger of incoming exploitation.⁵⁸ On the other hand, and in part for this reason, the process of consumption is today too complex to be grasped in Marx's dichotomy: individual consumption/productive consumption. The relative autonomy of relations of consumption is still to be fully explored.

Unequal differentiation is the privileged form of power of the community-place, and probably the most complex and ambiguous form of power. It operates by the creation of otherness, aggregation of identity, and the exercise of difference on the basis of more-or-less deterministic criteria. Essential to this form of power is the dualism of inclusion (in-group) and exclusion (out-group) that allows it to be exercised in a Janus-faced mode: rubber power (soft power, shared power, non-power) vis-à-vis the in-group, and iron power (naked power, terror) vis-à-vis the out-group. This form of power centers around the privilege to define the other. Now, as Edward Said has eloquently shown, those who are defined as the other are also defined as incompetent to define or represent themselves.⁵⁹ For those supposedly incompetent to define themselves, the question of identity is therefore a question of cultural resistance, of making the subaltern speak.⁶⁰ As a consequence, this form of power is acted out through struggles between imperial definitions of identity and subaltern definitions of identity. In its most pervasive form, unequal differentiation involves the attribution of social meaning to particular patterns of ethnic difference, and the negative evaluation of real or supposed (imputed?) characteristics deterministically ascribed to groups defined as different. This form of power is racism in the broadest sense, and is acted out in society in a wide variety of forms, such as discrimination, ethnocentrism, prejudice, xenophobia, stereotyping, scapegoating and so on.

The relation between this form of power and the other structural forms of power is very complex, and the object of ongoing debate, particularly regarding its relation to patriarchy and exploitation. The analytical difficulties arise out of the ever-shifting interpenetrations between them, but they are also the result of the crudeness of our analytical tools, of accumulated theoretical neglect about a form of power considered for decades to be anachronistic, residual, precapitalist, in sum, condemned by history. Nowadays, however, the restructuring of capital accumulation on a world scale is forcing us to sharpen our analytical tools, and to rein-

vent modern history in order to understand the new (and old) constellations of power, some of which I analyzed in Chapter-Four, such as reethnicization of labor force as a way of devaluing labor power below "normal" capitalist levels; super-exploitation of undocumented migrant workers; social distribution of minority groups into specially degraded workplaces (seasonal labor, hazardous work); ethnically biased criteria and decisions over refugees; the commodification of indigenous peoples' natural resources by TNCs; and so on.

Domination is the privileged form of power of the citizenplace. It is the only form of power which both liberal political theory and classical Marxism view as political power, that is, power generated in the political system and centered around the state. It is conceived here within the critical tradition, though considered as only one among other forms of power circulating in society. There is, however, one striking peculiarity of domination that must be mentioned at this point. Of all forms of power, domination is the most institutionalized, the most self-reflexive—it "thinks of itself" as the exclusive form of power—and also the most widely diffused, at least in core societies. Accordingly, it tends to be the most pervasive form of power in the multiple constellations of power generated in society, even though the quality and the degree of its presence vary enormously. This peculiarity expresses a profound contrast between domination and all the other forms of power. I distinguish between domination, as *cosmic power*, and all the other forms of power, as *chaosmic power*. By cosmic power, I mean centralized power, exercised out of a high-voltage core (the state) and reaching out to formally defined limits through institutionalized sequences and chains of bureaucratic intermediation. By chaosmic power, in contrast, I mean decentralized and informal power, exercised by multiple microcores of power in chaotic sequences without predefined limits. All constellations of power combine a cosmic component with a plurality of chaosmic components. The heterogeneity between cosmic and chaosmic components is responsible for the phenomenological opacity of power relations in society: as lived experiences, the constellations of power tend to be reduced either to their cosmic or their chaosmic components, thereby affecting the struggles of resistance against power, and eventually causing them to fail.

As to *unequal exchange*, the form of power of the workplace, there is also a long tradition of analysis, namely in theories of imperialism, dependency and the world system. Although, in the conception adopted in this book, all forms of power involve an unequal exchange, the term unequal exchange is used here *strictu sensu*, as a specific form of power, and with reference to the work of A. Emmanuel.⁶¹ According to Emmanuel, the core-periphery hierarchy in the world system is the result of unequal exchange, a mechanism of trade imperialism by means of which surplus-value is transferred from the periphery to the core. It operates not only because core productions have, on average, a higher organic composition (a higher ratio of capital to labor in the production process), but also, and above all, because periphery workers receive, on average, lower wages than core workers for similar kinds of work performed. A carpenter in the United States may earn ten times more than a carpenter in Mexico, despite their use of similar work technology.⁶² Wage differentials are way beyond differences in productivity and so, because they conceal a transfer of surplus-value from low-wage periphery to high-wage core, market exchanges are described as "unequal

exchanges of equals.” Other economic unequal exchanges relating to trade composition—raw materials from the periphery to the core, manufactured goods from the core to the periphery—have assumed, in the last decade, a new relevance and shocking aggravation. According to Maizels, in the period from 1980 to 1988, primary commodities exports from the periphery increased in volume by almost one hundred percent, but the total revenue obtained was, in 1988, thirty percent less than the one obtained in 1980.⁶³ The details of Emmanuel’s theory do not concern me here, though I would suggest that a more inclusive conception of unequal exchange is necessary to account for the multiple inequalities between the core, the periphery and the semiperiphery of the world system, not only regarding economic but also political and cultural exchanges. The virtue of Emmanuel’s conception is, however, to stress the fact that the mechanisms that reproduce these hierarchies are inherent in the relations themselves between the core and the periphery: unequal exchange as the source of uneven development.⁶⁴

As I have already suggested, unequal exchange constellates with other forms of power, namely with exploitation and fetishism of commodities. But it also constellates with domination in some very crucial ways, as my analysis of the relations between the transnationalization of the economy and the nation-states in Chapter Four clearly shows. For peripheral and semiperipheral states, one of the most crucial dimensions of such a constellation lies in the ways in which these states impose on their citizens the structural adjustment policies of the World Bank and the IMF, which are the workplace institutions under the control of core states. Unequal exchange constellates with unequal differentiation as well when, in instances also described in Chapter Four, TNCs extract raw materials in ancestral indigenous territories under contracts with nation-states (the constellation of power involves domination too). Last but not least, unequal exchange also constellates with patriarchy in multiple and cross-cutting forms. The interaction between unequal exchange and patriarchy seems to be governed by two main mechanisms, whose unfolding may be either convergent or divergent. On the one hand, the expansion of capital accumulation across the world system relies heavily on nonwage labor, particularly as performed in the household under the aegis of patriarchal power; this reliance tends to increase as we move from the core to the periphery. On the other hand, world capitalism is driven by a tendency to multiply the commodification of human needs and everyday life in such a way as to force core as well as peripheral and semiperipheral families to become income pooling units,⁶⁵ thereby changing the conditions of exercise of patriarchy in significant ways.⁶⁶ Such changes become more dramatic as we move from core to peripheral families. As we see, this constellation is extremely complex, in that it mixes unequal exchange, exploitation, patriarchy and fetishism of commodities. In the case of indigenous or tribal families—the peripheries of the peripheries—unequal differentiation also enters this constellation of power in significant ways.

Forms of Law

The same broad conception of law that was presented in the introduction to Part Two is adopted here: law is a body of regularized procedures and normative standards, considered justiciable in any given group, which contributes to the creation

and prevention of disputes, and to their settlement through an argumentative discourse, coupled with the threat of force. Granting, once again, that this very broad conception of law can easily lead to the total trivialization of law—if law is everywhere, it is nowhere—I wish to argue that of the great variety of legal orders circulating in society, six are particularly relevant, in that they are anchored in, constituted by, and constitutive of the six structural clusters of social relations in capitalist societies integrating the world system. As it generates (and is generated by) a specific form of power and specific epistemological form, each structural place also generates (and is generated by) a specific form of law. Although forms of power, law and knowledge tend to operate either as means or conditions of the exercise of each other, the way they do so may be more or less congruent and, consequently, more or less functional to the developmental logic of the different structural places. Actually, this is one of the main reasons why the reproduction of the structural places is inherently problematic and calls for constant structural adjustment both “horizontally,” among its different dimensions, and “vertically,” among each one of the dimensions of the six structural places.

As in all the other dimensions, in concrete social fields the forms of law operate in constellations of legality: different forms of law combining in different ways according to the specific social field for which they provide the normative ordering. There are, however, some specificities in the constitution of constellations of legality (or rather, legalities) and in the ways they operate in conjunction with the other dimensions of the structural places. First, in contrast with power and epistemological forms, whose operations tend to be more diffuse and free-floating, legal forms tend to operate within the confines of the core institutions of a given structural place. Second, the legal form is a doubly contested terrain because, while framing disputes arising in social relations, it is likewise reframed by them through rival interpretations. What is disputed is always, in part, the law of the dispute. Third, although all legal forms integrate constellations of legalities, territorial state law, that is, the legal form of the citizenplace, shows a peculiarity that is in fact quite symmetrical with the one noted above with reference to domination, that is, the power form of the citizenplace. On the one hand, it tends to be more spread out across social fields than any other legal form, even though its presence in the concrete constellations of legalities is very uneven. On the other hand, since it is the only self-reflexive legal form, that is, the only legal form that thinks of itself as law, territorial state law tends to conceive of the legal field as exclusively its own, thus refusing to recognize its operations as integrating broader constellations of laws. This tendency accentuates as we move from the periphery to the core of the world system.

Domestic law is the “native” law of the householdplace, the set of rules, normative standards and dispute settlement mechanisms both resulting from and in the sedimentation of social relations in the household. Domestic law is, in general, very informal, nonwritten, so deeply embedded in family relations that it is hardly conceivable as an autonomous dimension thereof. It is an interstitial legality. It is also an unequal law to the extent that it is grounded on patriarchy-based inequalities among the different members of the household. It varies widely across time and space in the world system, according to class, race, culture, religion and so on. Its variation, combined with its elusiveness, raises enormous obstacles to soci-

ological analysis. What follows are some hypotheses for a contextual comparative analysis, focused on three structural features of law I have identified: rhetoric, violence and bureaucracy. In spite of its extreme variation, domestic law tends to have a structural profile in which bureaucracy is almost totally absent, while rhetoric and violence are both pervasive and combined in intricate interpenetrations. Domestic legal rhetoric may be based on a greater or smaller polarization between the speaker and the relevant audience. In the patriarchal family, polarization is high and the argumentative discourse is dominated by the husband/father. Polarization and the inequality it reflects and reproduces express themselves in the asymmetry of the arguments, and consequently in the inequality of discursive exchanges. Inequality—in the antipodes of Habermasian “ideal speech situation”—turns domestic legal rhetoric into manipulation, into an exercise of symbolic violence, indeed one of the most pervasive forms of interpenetration between rhetoric and violence. But interpenetration occurs in many other instances, such as unilateral decisions about the range of the argumentative field, occasions on which argumentation may actually take place, sequencing and ordering of arguments and speakers, and, above all, unilateral impositions of silence and speech. As we move from the Western core of the world system to the non-Western peripheries, this mix of rhetoric and violence may be compounded with more formalistic procedures, which we could call ritualistic bureaucracy. These general hypotheses notwithstanding, both in core and in periphery householdplaces, the mixes of rhetoric, violence and bureaucracy may be dominated by any one of the structural elements of legality. Wife-battering and child abuse are the most common expressions of domestic law combinations dominated by violence.

Like all the other dimensions of the structural places, domestic law operates in concrete social fields in constellation with other legal forms. In the social fields clustered around the householdplace, the constellation of legalities tends to be dominated by domestic and territorial state law, combined in a variety of forms and degrees. Inspired by Foucault's pioneer work, Donzelot, among others, has shown how the modern state, particularly in the core of the world system, has gradually “policed the families” by a whole range of legal and institutional interventions.⁶⁷ The sum total of such interventions, sedimented in different layers in the course of the last two hundred years, is what we call family law, and, to a great extent, welfare or social law as well. The range of these interventions, combined with the positivist equation of law with state law, led to the idea that state family law is the only law of the householdplace. Leaving aside the fact that many other state legal fields not usually considered as family law (for example, mortgage law, health system law and so on) do operate in the householdplace, my central argument in this chapter is that householdplace relations are legally constituted by combinations of domestic and territorial law. Rather than a *tabula rasa* upon which the state inscribes its legality, the householdplace is a complex social field in which state and domestic legality engage in a constant process of interaction, negotiation, compromise, conflict, mutual reinforcement, mutual neutralization. The fact that this articulation remains socially invisible, particularly in the Western core of the world system, is the result of two convergent factors. First, this is the region of the world system in which the positivist reduction

of law to state law has gone further, both as regards scientific legal knowledge (turned into a learned orthodoxy) and as regards common social practices (turned into a legal common sense). Second, this is the region in which stronger states have so permeated the householdplace, and for such long periods, that the rules and principles of domestic law have been significantly changed in accordance with the rules and principles of territorial law. In this case, the invisibility of domestic law is the result of its isomorphism with state family law. More recently, however, in the aftermath of the crisis of the welfare state, the manifestations of an underlying constellation of legalities in the householdplace have resurfaced, due to the attenuation of the monopoly claims of state law over the legal character of householdplace relations. The reduction and degradation of welfare services and payments have correspondingly shrunk the range and intensity of state legal penetration in the householdplace. A legal vacuum seems to have emerged, as if the erasure of the welfare state inscriptions had really created a *tabula rasa*, this time ready for new, postwelfare inscriptions. Nevertheless, within the alternative framework of analysis I here propose, we can see that what are changing are the boundaries and the combination between the state law of the household and domestic law. What appears to be a delegalization or a deregulation of the householdplace is in reality a replacement of state law by domestic law, the emergence of a new constellation of legalities in which domestic law assumes a stronger role than before.

In the periphery and semiperiphery of the world system, state legal intervention in the household has always been weaker and less diversified, and the absorption of domestic law into state family law has been correspondingly less credible. Furthermore, the state legalization of the householdplace, besides being less pervasive, has also oftentimes been less isomorphic with domestic law. As a result, there have been recurrent conflicts between state family law and domestic law. These conflicts have been particularly intense in periods of revolutionary state transformation, in which the lack of isomorphism between domestic law and the revolutionary law of the state has been quite extreme. For example, when Bolshevik family laws in Tashkent collided with the domestic legality of peasant families molded by the Islamic religion, the resulting social conflicts, as well as the perverse or counterproductive effects of the revolutionary laws, forced the Bolsheviks to adopt a more compromising position.⁶⁸ A less extreme case concerns the transformations of family law in the aftermath of the Carnations Revolution in Portugal in 1974 to 1975, which swerved somewhat from the traditional domestic law of Portuguese households, particularly in rural areas. As a consequence of the clashes between the new state family law and domestic law, the enforcement of the new state legality has remained very selective to this day, while domestic law has also changed in significant ways.⁶⁹ In this case, as in general in all situations of low isomorphism between the two legal orders, what appears on the surface as a problem of discrepancy between law in books and law in action is, in reality, the ongoing process of struggle and negotiation between the state law of the family and domestic law.⁷⁰

This alternative approach to the legal construction of the householdplace is less corecentric and Westerncentric than the conventional one and, therefore, more adequate to critical comparative research, that is, to a comparative strategy

that avoids the trap of characterizing noncore, non-Western societies for what they lack. The conception of constellations of legalities enables us to hypothesize, in general, articulation and hybridization among legal orders, and then inquire about the specific forms they may assume: for example, whether some combinations may be more complex or more balanced than others, or whether a given society lacking in one type of law may abound in another and so on. Moreover, my alternative approach is equally promising for the analysis of core or Western households, particularly inasmuch as the so-called crisis of the welfare state unfolds, and we enter a postwelfare state legality. In such a period it will be important, both analytically and politically, to reconstruct the legal transformations in the householdplace in ways that allow us to evaluate the extent to which the retrenchment of (conceivably more progressive) welfare state legality coexists with the expansion of (conceivably more retrogressive) domestic legality (for example, new child care duties imposed on the housewife), or the extent to which more authoritarian state legality engenders a new isomorphism with domestic law by nurturing its more authoritarian traits or roots.

Production law is the law of the factory, the law of the corporation, the set of regulations and normative standards that rule the everyday life of wage labor relations (both relations of production and relations in production), factory codes, shop floor regulations, codes of conduct for employees and so on. Production law may be imposed unilaterally by the employer or management, or result from negotiation with labor unions or other workers' representatives, but in any case, it is marked by the power prerogatives inherent in the ownership of the means of production. This form of law varies widely, both in the core and in the periphery and semiperiphery of the world system, according to productive sector, size of enterprise, business cycle, political environment, workers' organization, corporate culture and so on. In general, it establishes the routines within the enterprise, and the punishment for their violation, governing tightly and in great detail the lives of workers and managers during the working day, and sometimes even beyond that. It may include the disciplining of human movements and rhythms, interactions and conversations, appearances, ways of dressing and talking, body language and so on. Most regulations are confined to the workplace, but some of them may reach out into family life, leisure time, public interaction and even political activities. It may further impose restrictions on freedom of speech (silencing, keeping secrets, distorting information, repeating public relations formulas and so on).

Production law may be written or unwritten, formal or informal, but, contrary to domestic law, its artificiality, arbitrariness and external imposition tend to be recognized as such in the everyday life experiences of those ruled by it. Structurally speaking, production law has chameleonlike features that make its characterization a very difficult task. Rhetoric, violence and bureaucracy may be combined in the most intricate ways, and while in some instances the combinations are sedimented and stable—they are embedded in the normative style and corporate culture of a given corporation—in other instances they change rapidly, or are so elusive as to escape description. As a general hypothesis, I would suggest that rhetoric plays a lesser role in this case than either bureaucracy or violence. Production law is, rather, a command law with some military-lawlike features.⁷¹

Rhetoric tends, therefore, to be congealed in clearly defined hierarchies and strict obedience rules. Moreover, argumentative discourse has a *tempo* which is incompatible with the production rhythm and the productivist cognitive maps that orient interaction inside the corporation. On the other hand, violence and bureaucracy vary widely, as witness the vast bibliography on control over the labor process (more on this below).

Phenomenologically speaking, production law is a very complex social construction. Although production law is embedded in production relations, its artificial and externally imposed character tends to surface clearly (and sometimes, brutally) in the life experiences of workers. Its despotism makes it excessive as law: it is too despotic to be law. While domestic law appears as too weak to be law (lacking in bureaucracy and, often, overt violence) production law appears as too strong to be law (too violent, whether bureaucratically or not: "the rules of the game," "the boss is the boss," "who sells labor sells freedom"). In the lives of wage laborers, rather than being independent, these two images feed upon each other. On the one hand, domestic law may seem more benevolent, partly because life in the workplace is so despotically ruled by production law. But on the other, the despotism of production law may also affect working-class households, whenever the male worker, who is, of course, ruled by production law in the workplace, uses his ruling privileges over domestic law to impose productionlike imperatives in the household relations.

Working-class households tend, therefore, to be ruled by complex combinations of domestic law, production law, and state family and welfare law, which vary widely across the world system. In the periphery, and particularly in rural areas, domestic law and production law are so deeply intertwined in the everyday life of peasant communities that it may be difficult and even inadequate to distinguish them. Whenever social production and social reproduction occur within the same social field, the constellations of legalities must be reconstructed in order to capture highly flexible transitions and subtle sequencings among aspects or moments of self-identical practices. Curiously enough, the expansion of flexible, postfordist, production systems in the core of the world system are creating new constellations of legalities between domestic law and production law which also tend to involve a much deeper intertwining of the two forms of law. The new "putting-out" systems, that is, the spread of piecework done at home, are blurring the distinction between householdplace and workplace. As nonwage capitalist work (housework) combines in the same social field (the household) with wage capitalist work, the interfaces between domestic law and production law expand enormously, and so do the vectors of interpenetration and contamination. Given the fact that much of the paid labor done at home is not protected by labor law, the intensification of the articulations between these two forms of law goes hand in hand with their relative uncoupling from state law.

The constellation of production law with territorial state law (for instance, labor law and economic law) is probably the most crucial constellation of legalities in capitalist societies. Part of what I said about the constellation between domestic law and state law applies here as well, since in both cases, the constellation of legality grew in complexity as the core states evolved from a liberal state form to a welfare state form. In more recent times, the relative weakening of state

law (the crisis of the regulatory state) combines with a relative strengthening of the “native” laws of the structural places, especially production law in the workplace and domestic law in the householdplace. As in the case of the householdplace, the “deregulation” of the workplace is the surface image of a transfer of regulation from state law to production law. In spite of these general similarities, there are many differences between the constellations of legality around domestic law and production law, resulting largely from historical and political differences of state “penetration” in the householdplace and in the workplace.

The other forms of law were to some extent dealt with in Part Two, and so I will mention them only briefly here. *Exchange law* is the law of the marketplace, trade customs, rules and normative standards that regulate market exchanges among producers, between producers and merchants, among merchants, and between producers and merchants on the one side, and consumers on the other. To the extent that it was the first legal field to break away from medieval state legality and to develop autonomously, this legal form pioneered the emergence of modern legality. In the wake of this tradition, *lex mercatoria* thrives in world economy today, regulating market exchanges with great autonomy vis-à-vis the nation-states. As a matter of fact, the existence of an informal, unofficial, exchange law has been long established in the sociology of law, as Stewart Macaulay’s pioneering study on the topic so well illustrates.⁷² In general, exchange law is very informal, very flexible and finely tuned to the interests and needs of the participants and the power relations among them. As we saw in Chapter Four, it may operate in a rubber cage or an iron cage mode, according to whether the parties have more or less the same power or, on the contrary, very unequal power. As an informal law, it tends to be low on bureaucracy, and high on rhetoric and violence. Whenever the asymmetries of power between the parties are very high, rhetoric and violence may converge so as to become indistinguishable.

This legal form constellates with all the others, in particular with state law (contract law, consumer law). While the legal constellations of the marketplace vary widely across the world system, the degrees of isomorphism between the territorial state law of market exchanges and exchange law are of specific comparative interest. As the commodification of needs expands, a certain cross-national convergence among the constellations of legality around the marketplace might be expected, and it is in fact occurring in the areas covered by *lex mercatoria*. Since the operation of exchange law is closely tuned to the power differences between the parties, whenever such differences are structural (as between producers and consumers), exchange law operates almost as despotically as production and domestic law.

Like the communityplace itself, *community law* is one of the most complex legal forms, in that it covers extremely diverse situations. It may be invoked either by hegemonic or oppressed groups, may legitimize and strengthen imperial aggressive identities or, on the contrary, subaltern, defensive identities, may arise out of fixed, unbridgeable asymmetries of power or regulate social fields in which such asymmetries are almost nonexistent or merely situational. As a result, the constellations of legality to which it contributes are very diverse; for example, those that also involve state law tend to have a great impact on the lives of people, particularly on those belonging to out-groups. In some societies—often (but

not always) peripheral societies coming out of colonial domination—hegemonic identity groups have managed to convert, to a greater or lesser extent, their community law into the law of the state; Islamic states are an extreme example of this process. In other societies, in India, for instance, the articulations between community law and state law are far more contradictory.⁷³

As regards groups with subaltern identity, I have offered an analysis of Pasargada law (Chapter Three) and the laws of indigenous peoples (Chapter Four). In spite of the striking differences between these two instances of community law, they have in common the fact that the social construction of an alternative legality arises out of an unequal differentiation that defined them as out-groups. Furthermore, in both cases, the alternative law, as part of a broader social and political process, aims at reducing this exclusion by creating or recreating an alternative identity, even though subaltern. The different sociological profiles of the two cases, the different historical roots of the social identities underlying them, and the different political processes that sustain the struggles in both cases account for the different constellations of legality with state law in the two cases. While in the case of Pasargada, the precarious exercise of self-government is a product of official legal exclusion, and is premised upon its continuation, in the case of the indigenous peoples, the struggle for self-determination is a struggle for official legal recognition by both the constitutional law of the (multinational) state and international law.

Territorial law or *state law* is the law of the citizenplace and, in modern societies, it is central to most constellations of legalities. For the past two hundred years, it has been constructed by political liberalism and legal science as the only form of law existing in society. In spite of its original arbitrary character, in the course of time this construction has invaded commonsense knowledge, and has become part of the legal habitus of individuals and social groups. As so conceived, state law is self-reflexive, it is, in other words, the only form of law that “thinks of itself” as law. For this reason, the conception of different modes of production of law and constellations of legalities I advance here, though, as I believe, sociologically more adequate and politically more progressive (more on this below), may appear to run against common sense and carries, therefore, a heavy burden of proof. At stake is precisely the construction of a new legal common sense.

The strategic value of territorial state law in constellations of legality in modern capitalist societies resides in the pervasiveness of its presence in the different structural places, even though the range and nature of this presence may vary widely across social fields and across the world system. Pervasiveness is important in itself, since it enables the state law to conceive of the different structural places as an integrated whole. In modern capitalist societies, state law is the only form of law capable of thinking the legal field as a totality, even if an illusory totality. The strategic value of state law resides also in the power of the state backing it. In contrast with the other forms of power, domination is a cosmic power, a highly organized and specialized power, driven by a claim to monopoly, and commanding vast resources in all the structural features of law (violence, bureaucracy and rhetoric). Though firmly embedded in the social relations clustered around the citizenplace, in contrast with other forms of power it operates as if disembedded from any specific context, with potentially infinite mobility and infinite diffusion

in the most diverse social fields. Thus backed by a form of power with such features, state law tends to overestimate its regulatory capacities, to claim more than it can deliver. But, on the other hand, and for the same reason, it also guarantees an organizational priority in the constellations of legalities, since all the other forms of law tend to take its presence for granted, and to organize and maximize their own regulatory intervention and efficacy around the limits, gaps and weaknesses of state law. As domination is a cosmic form of power, so is state law a cosmic law; it operates cosmically by constellating with all the chaomic laws.

Finally, *systemic law* is the legal form of the worldplace, the sum total of rules and normative standards that organize the core/periphery hierarchy and the relations among the nation-states in the interstate system. Above, I alluded to the debate on the role of normative integration as a glue holding together the world system. Even assuming, as Chase-Dunn does, that such a role is relatively secondary in comparison with market interdependence and political military power, inasmuch as they are social relations, the latter generate their own normativity, clusters of rules and normative standards that distinguish between legitimate and illegitimate expectations and discipline behaviors. No matter how unilaterally imposed by imperial states, dominant partners or core controlled international organizations, such rules and normative principles are invoked and applied to strengthen or stabilize the always-problematic coherence of the world system; for this reason I call them systemic law. International regimes are systemic law. Systemic law tends to be strong on rhetoric and violence, and weak on bureaucracy. *Lex mercatoria* operates, in general, either as a mixture of exchange law and production law or as a mixture of exchange law and systemic law. As is the case of other structural forms of law (with the exception of state law), systemic law is not socially constructed as law by the parties involved or affected by its normative claims. Depending on the position or the location of the parties, it is either constructed as "*realpolitik*," and "business as usual," or else as "naked oppression," "imperialism" or "abuse of power." Systemic law is to international law what domestic law, production law, exchange law and community law are to territorial state law; it exists on the reverse of the official legality that governs the relations among nation-states, sometimes complementing it, sometimes conflicting with or undermining it. The forms of cosmopolitan law analyzed in Chapter Four are transnational emancipatory struggles for the rights of oppressed social groups throughout the world and tend, therefore, to challenge the form of power that sustains systemic law (unequal exchange *strictu sensu*). To that extent, cosmopolitan law is an antisystemic law.

A final note on legal constellations. Due to its cosmic character, which relies on the legal activism and sanctioning power of the state, territorial law is a highly diversified legal field. It encompasses a multiplicity of subfields, a variety of modes of juridicity, each one with its own character and its historical trajectory, from contracts to criminal law, from labor law to consumer law, from torts to environmental law. In my analysis of state strategies in the world system in Chapter Two, I described in some detail the pattern of normal change grounded on the potentially infinite availability of territorial law to bring forth a societal transformation through repetition and amelioration. I saw this legal utopia, as I called it, as involving a complex distribution of legal resources by the three major strategies of the state: accumulation, hegemony and trust strategies.

Each subfield of territorial state law tends to constellate differently with the different chaomic legal forms. For instance, the way in which state family law constellates with domestic law differs from the way in which labor or business law constellates with production law; and state welfare law constellates differently with domestic, production or community law. Because of their social and political impact, the constellations of state criminal law with the other structural laws are particularly striking. What is declared criminal or noncriminal by state criminal law, for instance, is the result of complex negotiations, confrontations, complicities or compromises by state law in the process of constellating with the other structural laws. From this perspective, many more criminal courses of action occur in society than those so declared by state criminal law. Since inherent to each structural place is a form of power conceived as a specific unequal exchange, then crime is any course of action in which the exchange is so seriously unequal that it may even be considered physically or symbolically violent. In crime the polarity between power and powerlessness reaches its highest level. The level of polarization is in itself the result of negotiation of meaning, which in turn reflects the prevalent power relations in the specific cluster of social relations. As Henry and Milovanovic put it, "crimes are nothing less than moments in the expression of power such that those who are subjected to these expressions are denied their own contribution to the encounter and often to future encounters. Crime then is the power to deny others."⁷⁴

Legal constellations around crime vary widely. To the extent that chaomic legal forms are more despotic than territorial state law, their detection and regulation thresholds are higher than those of state law.⁷⁵ Accordingly, they may consider legal or even obligatory a given course of action that state law considers criminal. For instance, in many societies, wife-battering and child abuse are considered legal by domestic law, in spite of the fact that they are declared criminal by state criminal law. In areas of high incidence of undetected or unreported crime, the legal constellation manifests itself in the highly selective way in which state criminal law is enforced. A second type of constellation takes place in the inverse situation: when any of the structural laws considers to be criminal an activity that state criminal law considers legal or even obligatory. To continue with the example of domestic law, certain particularly vehement forms of confrontation of patriarchal power by the wife or the children may be considered criminal by domestic law (they are conceived as reducing the power-holder to powerlessness), while they are legal from the point of view of state law. The constellation in this case assumes several forms. It may express itself in the way state law defines its jurisdiction in order not to collide with domestic law. And if the collision cannot be avoided, it may express itself in highly selective enforcement, as in the first type of constellation.

In the two types of constellations analyzed so far there is an incongruence or conflict between cosmic and chaomic legality which may be managed in various ways, from confrontation to mutual accommodation. But the most common situations by far, and often with the greatest social and political impact, are those in which there is congruence or complicity between cosmic and chaomic legality. Legal constellations assume here two basic forms: one, when both state law and any other structural law consider crime what, from the point of view of the

weaker party in the power relation, is resistance against crime; the other, when both state law and any other structural law consider legal or outside their respective jurisdictions a course of action which, from the point of view of the weaker party in the power relation, is criminal. In either case, the complicity or isomorphism between cosmic and chaomic law puts the weaker party in the power relation, that is, the party most likely to be the victim, in a particularly vulnerable position. To recognize the existence of legal constellations at work in the process of vulnerabilization has crucial value, both sociologically and politically, because it underscores the fact that resistance against doubly legitimized exercises of power must take place against all the legal orders involved. One mere change in state law may change very little if the other legal orders are in place and manage to reestablish their constellations with state law in new ways. Furthermore, the recognition of legal constellations amounts to the recognition of the fact that emancipatory practices and struggles must also network and constellate if they are to succeed at all. Otherwise, one isolated struggle against a given form of regulation may unintentionally reinforce another form of regulation.

Forms of Knowledge

As I indicated in Chapter One, I see the six structural places as topic fields, argumentative circles and audiences held together by clusters of local *topoi*. Each structural place is a set of widely shared arguments, counterarguments and premises of argumentation, by which courses of action and interactions define their belongingness and their propriety within a specific topic field. The coherence, sequencing and networking among arguments, together with the specific polarities between speakers and audiences, configure a local rhetoric, a specific style of reasoning, persuading and convincing. Each structural place is, therefore, a specific common sense, a local hegemony.⁷⁶ All social interaction is an epistemological interaction, an exchange of knowledges. What is distinctive about structural places is that they are privileged epistemological locations, specifically powerful and shared symbolic fields, widely used maps of meaning. Their imprint on knowledge practices in general is very intense and pervasive, even though different life experiences and trajectories generate different exposure to and expertise in one or another form of commonsense knowledge.

The core of the epistemological framework I am presenting is that there is not one single common sense, but rather six major common senses circulating in society, six modes of production of knowledge-as-regulation, through which individuals and groups know what they are doing and saying by doing and saying according to what is supposed to be known in the specific type of action and communication. Each form of knowledge establishes boundaries of reasonableness, symbolic demarcations for ordered action and communication. Cognitive claims are thus deeply intertwined with normative claims (more on this below). In Table 3, I identify these six structural epistemological forms by resorting, as the designations chosen indicate, to studies on sociology of culture and cultural studies in general, which were already relevant for Chapters One and Four. I will confine myself to commenting on some of the more problematic features of this framework. First, a conceptual note. Central to my argument is the idea that all forms

of knowledge are partial and local; they are contextualized, and thus limited by the clusters of social relations of which they are the epistemological "consciousness." There is, therefore, no specific epistemological reason to designate as local knowledge the common sense of the communityplace. I use this designation to relate the concept of this form of knowledge to Geertz's analyses of community-based "local knowledges."⁷⁷ The "location" of science in the workplace may be disputed. Indeed, bearing in mind that, since the mid-seventeenth century, and particularly after the mid-nineteenth century, modern science consolidated its hegemony by benefiting from increasing state protection to the point of becoming the official knowledge taught in the public educational system and developed in research institutions set up or financed by the state, it could be argued that science is the epistemological form of the citizenplace. As a matter of fact, in my analysis of the state strategies in the interstate system (pattern of normal change) in Chapter Two, I consider science to be the privileged form of knowledge of state action: as a productive force in accumulation strategies; a discourse of truth sustaining the educational system in hegemony strategies; and a national resource in trust strategies. It could be alternatively argued that, since the first industrial revolution, modern science has gradually been transformed into a force of production, to the point of being today the force of production *par excellence*, and that, accordingly, it should be conceived as the epistemological form of the workplace.⁷⁸

Without questioning the facts supporting the arguments above, I prefer to conceive of modern science as the epistemological form of the workplace in order to emphasize the fact that modern science is one of the earliest and by far the most successful globalized localism of Western modernity, and that its success lies in part in not letting itself be reduced either to a force of production or to an official knowledge. The universalism of the scientific ethos as conceptualized by Merton, though mystifying, does have a grain of truth.⁷⁹ Of course, as I suggest in Chapter One, modern science is a Western cultural artifact, whose "universal" diffusion in the world system has been uneven, and has reproduced asymmetries and hierarchies among the core, the periphery and the semiperiphery. There is, however, a grain of truth in science's "universalism": scientific knowledge is today a worldwide argumentative audience, a highly stratified audience to be sure, with a great polarization between speakers (concentrated in the core countries) and non-speakers, but still an audience reaching far beyond the national boundaries, and endowed with a high level of transnational intelligibility (the "scientific community"). This conception of modern science as the epistemological form of the workplace permits us to see both the range of its audience, and the ways in which it reproduces and reinforces the hierarchies of the world system. Indeed, modern science, in constellation with the epistemological form of the workplace (productivism, technologism, professional training and corporate culture), is today the key factor of the international division of labor, contributing decisively to accentuate the unequal exchanges in the world system.

As the common sense of scientists or *ideologie des savants*, modern science is the hegemonic form of knowledge in contemporary societies, which constellates with the other common senses produced in society through powerful means of diffusion. It is, therefore, a highly pervasive form of knowledge, a cosmic form of

knowledge. However, in contrast with the cosmic form of power (domination) and the cosmic form of law (state law), science does not rely exclusively on a national, centralized and bureaucratic institution (the state) for its cosmic operation. Though the state is an essential facilitator through scientific research and development policies, science operates cosmically because it is an organized, specialized, professionalized knowledge susceptible of being produced *ad infinitum* in apparently context-blind settings, according to formalized and replicable methodologies; it is a form of knowledge capable of powerful and drastic interventions in nature and society, whereby its instrumental operativity is in turn reinforced and dramatized.

In spite of its cosmic character, and in much the same way as domination and state law, modern science only operates in constellation with other, chaotic, forms of knowledge. Two of the most strategic constellations in the reproduction of capitalist societies have already been mentioned: science and citizenplace knowledge (science as official knowledge and measure of national advancement); and science and workplace knowledge (science as force of production). But science also constellates with all the other structural common senses, in either conflictual or complementary relations. For instance, the constellation of science and communityplace knowledge is a tense one. On the one hand, in its hegemonic drive, science aspires to dismiss and replace local knowledges altogether; the very idea of a "scientific community" suggests that science considers itself the only modern identity-value on which basis communitarian ideals can flourish. On the other, whenever science is operative in concrete social fields (other than the scientific community), it resorts to other local knowledges in order to preempt conflicts, facilitate interventions, lower costs and so on. Whenever this complementarity fails to happen, the constellation becomes conflictual, and scientific knowledge is likely to be confronted, obstructed or subverted by communityplace knowledge. These complex articulations are particularly visible, and sometimes become even dramatic, as we move from the core to the periphery of the world system.

The constellations of science with familism and familial culture are equally complex. In the core countries, from the mid-nineteenth century onwards, many transformations of household relations were promoted by the state in the name of science, and for the progress of the nation. They represented complex knowledge formations of family culture, civic culture and science. Today, the campaigns for the vaccination of children or for the sterilization of women throughout the periphery constitute similar constellations. As science constellates with other knowledges, it is also transformed by them; by means of interpenetration or contamination, it assumes partial characteristics of other knowledges. I am not speaking of gross manipulations of science in order to yield to other knowledges, as in the case of the Lysenko *affaire*, when science was made to yield to cultural nationalism.⁸⁰ I am speaking of spontaneous, interstitial, relatively chaotic processes, by means of which science is interpenetrated with mass culture as the epistemological form of the marketplace (for instance, popular science, science fiction), or with the epistemological form of the communityplace (for instance, the sense of community among groups of scientists, the creation of scientific traditions and scientific identities).

In each knowledge formation, science is the context-blind component of cultural contexts, herein lying the deepest roots of its cosmic operation. But because this context-blindness can only affirm itself in cultural contexts, it becomes necessarily contextualized by the chaotic knowledges with which science constellates. This contextualized context-blindness is most visible in the articulations between cognitive and normative claims. All epistemological forms combine, albeit very differently, these two types of claims. Each form of knowledge is also a moral code in Wuthnow's sense: "a set of cultural elements that define the nature of commitment to a particular course of behavior."⁸¹ Familial culture is deeply intertwined with family values; corporate culture with the values of achievement and discipline; consumerism and mass culture with individualism and with what Wuthnow calls the "morality of the marketplace";⁸² local knowledge with the precedence of primordial identities and roots; civic culture with national identity and civic values. What is specific of science is that it denies the possibility of cognitive and normative claims coexisting in the same epistemological form. It thinks of itself as making only cognitive claims (the truth). In light of the epistemological critique conducted in Chapter One, and bearing in mind that science operates in knowledge formations, it should be clear by now that the specific normative claim of science is to purport to make no normative claims. By the same token, it should be also clear by now that its truth is but a discourse of truth.

As in the case of forms of power and law, I have concentrated here on the hegemonic forms of common sense in capitalist societies, that is to say, on knowledge-as-regulation. But if structural places are indeed clusters of social relations, then they are also clusters of knowledge relations. Inasmuch as they are fields of social struggles, they are also fields of struggles among knowledges. Thus, in concrete social practice, the regulatory rhetorics are often confronted with emancipatory rhetorics. The task of postmodern critical theory, as I see it in Chapter One, is to promote, through dialogical rhetoric, in each one of the six clusters of social relations, the emergence of emancipatory *topoi* and arguments or counterhegemonic common senses which will expand along with the argumentative audiences created around them, eventually to become hegemonic knowledges-as-emancipation. These knowledge struggles must be conducted in all six clusters of social relations. Like knowledge-as-regulation, knowledge-as-emancipation only operates in constellations of knowledges too. To disregard this fact amounts to running the risk of having the emancipatory rhetoric conquered in one of the epistemological forms constellate "naïvely" with the regulatory rhetoric of another epistemological form. I will return to this in the last chapter.

ON STRUCTURAL DETERMINATION: ASYMMETRIES AND BIFURCATIONS

What characterizes capitalist societies is not so much the structure of determination, but the horizon of determination, that is, the outer boundaries of structural limitation. In Wright's conception, structural limitation is a pattern of determination in which some social structure establishes limits within which some other structure or process can vary, and establishes probabilities for the specific struc-

tures or processes that are possible within those limits.⁸³ Unlike Wright, I do not think that only some of the relevant structures provide structural limitation, nor that it is possible in general to establish any form of structural determination. In abstract, none of the structural places separately establishes more or more important limits than the other. The six structural places taken together as constellations of social actions establish the horizon of determination, the outer structural limits of social life in capitalist societies. Within the structural limits there is a sea of contingency. The different structural forms of social power, law and knowledge, unfold in the two contrasting modes that I have already identified: *boundary-setting* and *pathbreaking*. As boundary-setting, they establish limits, as pathbreaking, they create contingency and may dislocate the limits. Insofar as they are inhabited by partial contradictions (the systematic production of a certain form of inequality), the structural places also unfold in a contradictory manner. Hence their functional reproduction cannot be guaranteed *a priori* or forever; on the contrary, it is inherently problematic. Furthermore, besides unfolding as pathbreaking or boundary-setting (qualitative dimension), structural forms of power also unfold in *high-tension mode* or in *low-tension mode* (quantitative dimension). When unfolding in a high-tension mode, the form of power provides the matrix for organizing the concrete social field; when unfolding in a low-tension mode, it facilitates or obstructs, consolidates or disrupts, expands or contracts, supplements or subverts such a process of organization.

Structural places are sedimented locations of social agency (gender and generation; class and “capitalist nature”; consumership; citizenship; community and ethnicity; nation-state). To unfold in constellations means that, in concrete social action, agency is always a constellation of some or all the different forms of agency. Since in abstract it is impossible to judge which constellations of agency will be more pervasive or determinant, let us think of a concrete example. Social relations between a working-class couple in which husband and wife have different ethnic backgrounds may, in “normal times,” be organized around the householdplace, that is, by gender relations. The fact that they are both workers and citizens of the same country and, at the same time, members of different ethnic groups, may now facilitate or consolidate, now disturb or obstruct the dominant pattern of relations. In “critical times,” however, when, for instance, one or both of them has lost their job, their relations will be drastically reorganized by the workplace, whereas gender or ethnic relations may either attenuate or further aggravate the costs of such reorganization. In still other instances of “critical times,” as when there is an outbreak of ethnic violence in the neighborhood or in the country, their social relations as a couple may be further drastically reorganized by the communityplace, particularly as regards their relations with their children and their upbringing (the language they will learn as their first language, the school they will attend, the religion they will profess, the way they will dress and so on); in such a situation, gender, class and citizen relations may either supplement or subvert, facilitate or obstruct such reorganization.

If we move from the microlevel of interactions to the macrolevel of national societies in the world system, the above-mentioned example of free trade fundamentalism and hegemonic demands for structural adjustment, stabilization and foreign debt payment indicates very clearly that the workplace of peripheral soci-

eties is drastically reorganizing all the other structural places, even though the range and the depth of the reorganization may change enormously across social fields. It seems reasonable to hypothesize that the workplace will have a much higher-tension presence in social relations clustered around the workplace, the marketplace and even the citizenplace than in social relations clustered around the householdplace or the communityplace.

How might one account metatheoretically for a scheme of structural limitation, itself constituted by a plurality of partial structures, within whose boundaries, never fixed or stable, social fields are played out in open-ended contingency and indeterminate social relations, insusceptible, therefore, of being explained by causal primacies defined, in general, for social relations of a given type? To answer this question, it may be useful to confront the conception adopted here with those of two authors who in recent years have reformulated their structural theories, in both cases by softening somewhat their deterministic claims. I am referring to Erik O. Wright (in collaboration with Levine and Sober), well known for his model of structural determination based on the causal primacy of the class structure,⁸⁴ and I. Wallerstein, equally well known for his theory of the world system, according to which causal primacy is attributed to the unequal economic exchanges inherent to the global division of labor.⁸⁵ Both have recently presented metatheoretical proposals—in Wright’s, Levine’s and Sober’s case, a fully developed reconstruction,⁸⁶ in Wallerstein’s, some innovative suggestions⁸⁷—which deserve attention and help to shape the proposal I myself am presenting in this chapter. Both proposals are metatheoretical, one in the tradition of the philosophy of science (Wright’s, Levine’s and Sober’s) and the other with Kuhnian and Prigoginian traits (Wallerstein’s).

Wright’s, Levine’s and Sober’s reconstruction is born of the need of “reconstructing Marxism” in dialogue with other influential and highly revisionist reconstructions of the last decade, namely by Giddens⁸⁸ and Habermas,⁸⁹ as well as with important theoretical work (for example, G. A. Cohen⁹⁰ and J. Elster⁹¹) and historical work by Marxists, neo-Marxists and post-Marxists (specially Skocpol⁹²). Wright, Levine and Sober propose a “weak historical materialism” and a pragmatic reevaluation of the “methodological distinctiveness” of Marxism. They start out by acknowledging that many debates in the social sciences revolve around issues of causal primacy and causal asymmetry:

Often, proponents of contending positions agree that certain causes are relevant for explaining some phenomenon but differ in their assessments of the relative importance of these causes (*quantitative asymmetry*) or in their understanding of the qualitatively different ways in which they enter into particular causal processes (*qualitative asymmetry*).⁹³

The debates Wright, Levine and Sober have in mind are basically those, within and without Marxism, which engage the relative explanatory importance of class, gender and the state, only to proceed onto a careful and detailed specification of different forms of causal asymmetry. Some of their conclusions are of particular interest for the argument of this chapter. First, many of the explanatory disputes

are not genuine, because even if they address the same topic, they do not have the same *explanandum* (it is one thing to explain why social insurance was introduced in Britain in 1904, in Canada in 1922 and in the United States in 1933, it is another thing to explain why no capitalist country had a social insurance in 1850 and why all developed capitalist countries had some form of social insurance by 1950).⁹⁴ Shifts of *explananda* are particularly evident in discussions of the relation between class and gender and between class and the state. Second, causal primacy claims are difficult to sustain with precision, and amount to assertions of one or another kind of quantitative asymmetry. The relation between explanatory importance and asymmetry is, however, problematic. The distinction between dynamic and nondynamic systemic causes provides a good illustration of the difficulties. In a synchronic ("static") analysis of capitalist societies, it is impossible to sustain, in general, a causal primacy claim between state, class and gender, since each one of them imposes structural limits on any of the others. On the contrary, according to Wright, Levine and Sober, in a dynamic analysis, that is, in an analysis of the internal developmental dynamics of capitalist societies, there is a causal asymmetry between the state, class and gender since, of the three, only class has internal dynamics: "the trajectory of development of the state [and also of gender] and the economy would be driven by dynamic causes operating in the economy, but not by dynamic causes endogenous to the state [or to gender]."⁹⁵ Nevertheless, this asymmetry cannot be considered enough basis for a claim of causal potency: "there is no reason to consider dynamic endogenous processes more important than contingent causes or synchronic systemic causes *simply because they are dynamic and endogenous*."⁹⁶ Again, the causal primacy can only be established in light of the precise characterization of the *explanandum*. Thus, Wright's, Levine's and Sober's final conclusion turns out to be a rather weak version of structural determination. Though they assume that there are asymmetries among causes, including asymmetries that justify causal primacy claims, "there is no principle that warrants the conclusion that class considerations always comprise the primary determinants of social phenomena," and for this reason, "the sweeping, global claims to causal primacy characteristic of much of the Marx tradition are unsustainable."⁹⁷ The causal pervasiveness of class should therefore be much more important than its causal primacy.⁹⁸

Wright's, Levine's and Sober's concern with the precise description of *explananda* is the most innovative and promising feature of their metatheoretical reconstruction of Marxism. The problem with this reconstruction is that, being formulated within the tradition of epistemological realism, it assumes that the precise description of the *explanandum* is possible without resorting to the theory that will then explain it as a kind of preunderstanding (*Vorverständnis*). In light of my epistemological argument in Chapter One, this is highly problematic.⁹⁹ As the bankruptcy of realist epistemology becomes increasingly evident, the relation between facts and theories also becomes more complex. Facts and theories simply represent different perspectives and different degrees of vision within the same epistemological field.¹⁰⁰ An exclusive emphasis on causal analysis is therefore basically misplaced, and the precise description of the *explanandum*, rather than adjudicating among competing theories from "the outside," so to speak, can only signal theoretical preferences in intelligible ways.

In other words, the concern with the *explanandum* does not solve the metatheoretical problem, it merely displaces it.

In the conception I am proposing here, we go a step further in softening structural determination. Since assessments of relative importance even among "important causes" are unsustainable, the analytical focus turns to the identification and enumeration of important factors (the six structural places) rather than to their rankings; to horizons of determination rather than to road maps of determination. Within such a horizon, contingency and creativity are both lived experiences, and conditions of intelligibility of what happens to people and of what people make happen. This leads me to Wallerstein's metatheoretical insight. Economic determinism is one of the basic tenets of world system theory. Its most recent and articulate formulation is Chase-Dunn's conception of the world system as a social system whose historical specificity lies to a great extent in being held together and integrated through a division of labor, that is, through "the interdependence produced by a market-mediated network of economic differentiation," rather than through cultural and normative integration.¹⁰¹ Consequently, for world system theory, culture and normative integration play secondary rather than primary roles in the reproduction of contemporary world order.¹⁰² The epiphenomenal character of culture and even of politics in the world system theory has been widely criticized. Since the mid-eighties, Wallerstein himself has felt the need to stress the political¹⁰³ and cultural¹⁰⁴ dimensions of the world system. Indeed, in response to Balibar's critique of his determinism,¹⁰⁵ Wallerstein has most recently suggested that structural determination is itself a dependent variable which must be evaluated in conjunction with Braudel's multiplicity of social times:

[W]hen an historical system is functioning normally—whatever the system and thus including the capitalist world-economy—it seems to me that, almost by definition, it operates overwhelmingly as something that is determined. . . . But every historical system moves eventually towards its end via the working-out of the logic of its contradictions. At that point, the system goes into a "crisis," enters a period of "transition" which leads to what Prigogine calls a "bifurcation," that is to say, to a highly fluctuating situation in which a slight push can lead to a very large deviation. In other words, it is a situation in which freewill prevails. It is exactly for that reason that it is almost impossible to foresee the outcome of the transformations.¹⁰⁶

In other words, in such a situation, the claims of determination must be scaled down and, even though it is possible to continue to speak of mechanisms, structures, constraints and limits, the social transformation must be thought of more in terms of "utopistics"¹⁰⁷ than in terms of the workings of primatial causes: "We are approaching the end of the system—that long moment which, I believe, we have in fact already entered and thus we need to think about the possible leaps we might make, the utopias that are now at least conceivable."¹⁰⁸

Ours is a time of paradigmatic, epistemological and, though less visibly or more embryonically, sociocultural-political transition as well. I therefore join

Wallerstein in his call for scaling down determination claims and indeed going beyond the limits of the world system theory as it currently stands. Rather than relying on one macrostructure, the worldwide division of economic labor, I propose a constellation of six structural places of which this macrostructure is one (the worldplace). Among them, no asymmetries, hierarchies or primacies can be established in general, which is the same as saying that there is no “natural” or “normal” constellation of structural places. The development of capitalist societies and the capitalist world system as a whole are grounded on such constellations, and not on any one of the structural places individually. Conversely, the success of anticapitalist, antisystemic struggles depends upon their capacity to organize in constellations of emancipatory social agencies, that is, in constellations of equal exchanges against constellations of powers, in constellations of radical democratic legalities against constellations of despotic legalities, in constellations of emancipatory knowledges against constellations of regulatory knowledges. To account for such an agenda, theoretical reconstructions must be far more demanding and innovative, and the social practice they call for, more creative and complex (as aware of limits as of possibilities), less dogmatic, in view of the partial nature of all relevant forms of agency, prone to alliances to overcome incompleteness, and, finally, epistemologically more tolerant in face of the various locational and partial knowledges and common senses invested in it.

EXPANDING THE LEGAL AND THE POLITICAL

I argue in this chapter that, as power formations, capitalist societies are constituted by six forms of power and, as legal formations, by six forms of law. This is, however, only one side of my argument. The other side is that only one of the six forms of law is officially recognized as law (state law) and only one of the six forms of power is recognized as political power (domination). The two sides of the argument must always be considered together.

The analysis above suggests that, of the six forms of power, domination is, in liberal democratic societies, the least despotic, in that it is a form of power whose exercise is limited by certain democratic rules and controls, and allows for a certain measure of citizens’ participation and citizens’ welfare in light of the civil, political and socioeconomic rights guaranteed by the constitution of the state. It also suggests that, of all the six forms of law, the state law is, in liberal democratic societies, the least despotic, because it is promulgated by democratic processes, exercised according to procedural rules (the rule of law) that protect the weaker part against arbitrary decisions and applied by bodies of professionals trained to separate the legal from the political and decide with impartiality. But, as we have seen, the very broad claims for democratic power and rule of law of Western modernity were drastically reduced from the mid-nineteenth century onwards. As capitalism became the exclusive development model of modern societies, most social relations could not possibly be governed according to the radical democratic claims of modernity. Indeed, as I explained above, in some social fields, capitalism would necessarily generate despotic social relations, more despotic, in fact, than ever before.

To solve this antinomy without thereby undermining the credibility of the liberal project, the universal character of the democratic claims was upheld by converting a relatively restricted field of social relations—the citizenplace—into the universe of entitlement to such claims. As a consequence, only the rules and normative standards emanated from the state and exercised by it would be considered legal. Similarly, only the power exercised by the state or centered around it would be considered political. Beyond this, neither law nor political power would be recognized as such. This arbitrary reductionism produced two occultations, both crucial for the legitimation of capitalism as a global social relation. First, it obfuscated the fact that the relatively democratic power of the state could only operate in constellation with other forms of power, in general more despotic than itself. Second, it obfuscated the fact that the democratic rule of law could only operate in constellation with other forms of law, in general more despotic than itself. Once this double occultation was successfully inculcated throughout society by a whole range of hegemonic strategies (from legal science to mass media and the educational system), there was no point in extending the legal and political principles of modernity beyond the citizenplace to the remaining five forms of law and power, in spite of their being, when taken together, a much larger body of law and power, governing a much wider range of individual and social life. As a result, the despotism of these forms of law and power remained invisible as legal and political despotism, and consequently could not be compared or contrasted with the relatively democratic character of the law and power of the citizenplace.

In order to illustrate this process, I will briefly review Marx’s analysis of the emergence of the factory acts in nineteenth-century England in the first volume of *Das Kapital* (Chapter Ten). I will then offer a reinterpretation of Marx’s findings in light of the alternative framework proposed by me here. The reason why I choose Marx is because, even though he was the most radical and lucid critic of the liberal capitalist project, he nevertheless surrendered to the project’s legal and political common sense, which, in itself, bears testimony to the latter’s resilience and pervasiveness. As described by Marx, this historical example does not allow us to view the interaction among the six structural places but, at least, the interaction between the workplace and the citizenplace emerges very clearly, and though very weakly (due to Marx’s analytical preferences), we can also “feel” the presence of the householdplace, the marketplace, the communityplace and the worldplace.

The crucial role of the state and state legislation in the creation of the labor force required by the emerging capitalist mode of production is today well documented. This is a long historical process that, in England, lasted from the fifteenth to the eighteenth centuries. As Marx puts it in the *Grundrisse*, “the annals of English legislation contain the bloody handwriting of coercive measures employed to transform the mass of the population, after they had become propertyless and free, into free wage laborers.”¹⁰⁹ Marx analyses then, in *Das Kapital*, the “bloody legislation against vagabondage” at the end of the fifteenth century and during the sixteenth century throughout Europe.¹¹⁰ These were the laws that created the labor force, and were an essential factor of so-called primitive accumulation. Once this stage was concluded and the labor force was created, one would think that capitalist relations of production would develop by themselves. In capitalism,

“surplus labor and necessary labor glide one into the other,”¹¹¹ and, as a result, “the dull compulsion of economic relations”¹¹² operates by itself, making superfluous any direct intervention of the state in the appropriation of the surplus labor by capitalists. Indeed, this is only part of the picture, as Marx also recognizes, first, because the “dull compulsion of economic relations” was in fact constituted by the state law of property and the law of contract; second, because, whenever the economic compulsion failed (as in the case of destruction of machinery or of strikes), its operation could only be restored by state coercive intervention; and, third, because the state intervention in the reproduction of the labor force went far beyond coercive measures against workers in exceptional situations, the Factory Acts on the working day being a good illustration of such an intervention.¹¹³ Marx insists that given “the passion of capital for an unlimited and reckless extension of the working day,”¹¹⁴ “the factory legislation was the first conscious and methodical reaction of society against the spontaneously developed form of the process of production.”¹¹⁵ Were these laws against the interests of capital? “No,” Marx replies, because the “unrestricted waste of human life”¹¹⁶ resulting from the “unnatural extension of the working day”¹¹⁷ would in the end paralyze the mechanism of exploitation. But the truth of the matter is that capitalists fought as much as they could against the promulgation of the Factory Acts, and they used the most diverse devices to evade their enforcement once they were passed.¹¹⁸ On the contrary, workers fought for those laws, and Marx concluded that “the establishment of a normal working day is the result of centuries of struggle between capitalist and laborer,”¹¹⁹ the product of a “protracted civil war.”¹²⁰

Marx’s analysis of the Factory Acts suffers from a certain ambiguity. If the Factory Acts furthered the interests of capital, why did capitalists fight against them? Why did the workers fight for them? If they were in favor of the interests of capital, were they necessarily detrimental to the interests of the workers? These questions were not adequately answered by Marx. Nor are they being properly answered in the current discussions of the rise and demise of the welfare state or of the regulatory state. In my view, the Factory Acts symbolize an historical turning point in the articulation of citizenplace and workplace. The Factory Acts were an absolute gain for the workers at the level of the citizenplace. The corresponding absolute loss for capital at that level was, however, compensated for by the gains it did obtain at the level of the workplace, within the new parameters established by the laws. Marx and social historians of the period emphasize that the Factory Acts contributed decisively to the restructuring of capital: they accelerated the transition from the manufacture system to the factory system, and they changed the conditions of competition in favor of the most productive and technically advanced factories and industries. The gains for capital were thus an increase in the control over the social relations in the workplace through the intensification of the labor process (speedups, introduction of piece wages, mechanization and so on). These gains could not be generalized to all capitals and capitalists. They were allocated to those that could convert the losses in the citizenplace into gains in the workplace. All others would disappear or be proletarianized. For those capitalists that succeeded, the loss in the citizenplace was compensated for or neutralized by the gain in the workplace. For the workers the inverse was true.

But the most important feature of this transaction is that, due to the autonomy of the structural places, it remained invisible, it remained below the threshold of social consciousness. This game of gains and losses was socially constructed not as a positive-sum game between the workplace and the citizenplace, but as two separate zero-sum games—one in the workplace, the other in the citizenplace—whose results could not be measured one against the other. Gains for workers and losses for capital in the citizenplace; gains for capital and losses for workers in the workplace. That is, the gains and losses were not compensated for at the same level, nor were they perceived as results of reciprocal developments, and as such their structural combination remained hidden. Capital’s loss of political power within the citizenplace could not be measured against its gain of political power in the workplace. In other words, its loss of control over state law could not be measured against its gain of control over production law.

The incommensurability of gains and losses was crucial in the consolidation and legitimation of capitalist social relations because it reinforced the differences between the workplace and the citizenplace. It made clear that the distribution of social power and legal competence to the workers in the citizenplace could never expand to the workplace in the same way or by the same process, and that this fact would not be conceived as the result of a political decision, but rather as the natural and necessary outcome of the structural autonomy of the two places. In other words, under capitalist social relations, the worker would always be less a citizen of his or her factory than of his or her country; moreover, such a discrepancy would be considered to be not only inevitable but also natural. The fact that the worker’s gains were obtained in the citizenplace was important in itself. They were translated into state law, a form of law based on general, universal rights. Given their institutional separation from the workplace, rights were relatively stable entitlements. They were not strictly tied to the fluctuations of the economic cycle. This lack of reciprocity with production reinforced the developmental dynamics and rationality of the citizenplace (loyalty maximizing), and by the same token stabilized its form of power (domination). However, this relative stability was obtained through a process which simultaneously obtained the consent of the workers to be subjected, within the workplace, to production law, a form of law based not on universal rights but on production interests. And since interests were defined by the rationality of profit maximizing, they were precarious entitlements, strictly tied to the fluctuations of production and as unstable as production itself. In other words, the Factory Acts legitimated the state before the workers-as-citizens and, by the same process, they legitimated the factory before the workers-as-a-class-of-wage-laborers. This laid out the structural foundation for the types of class compromises that were later on achieved most notably by social democracy in the core countries.

By now it should be clear that, in my view, the “false consciousness” of law in capitalist societies does not lie so much in the discrepancy between law in books and law in action, as is commonly assumed, as in a well-knit social construction that converts state law into the exclusive form of law, thereby presuming to suppress domestic, production, exchange, community and systemic law, without which, in fact, state law could not possibly operate as it does in our societies. Legal sociology, no matter how critical, has done nothing since the nineteenth

century but consolidate and legitimate this suppression of dimensions of the legal formation. Capitalist societies are less than democratic, not because the law of the citizenplace is less than democratic, but rather because this form of law, no matter how democratic, must coexist with five other forms of law that are more despotic, and operate in constellation with them. This explains why all the attempts to create industrial citizenship, under conditions of capitalist appropriation of the means of production, are always bound to fail whenever they come into conflict with the logic of profit maximizing.¹²¹

Marx was acutely aware of the changes in the regulation of labor taking shape in his time. Indeed, he established the material base for the articulation among different political and legal forms when he distinguished between the division of labor in society at large and the division of labor in the workshop, and related one to the other:

The division of labor in the workshop implies concentration of the means of production in the hands of one capitalist; the division of labor in society implies their dispersion among many independent producers of commodities . . . in a society with capitalist production, anarchy in the social division of labor and despotism in that of the workshop are mutual conditions, the one of the other.¹²²

But he failed to see in these changes the dynamics of the articulation among political and legal forms and institutions throughout society. When he uses the terms *political* and *legal* in the context of the workplace, he does so in an analogical or metaphorical sense: "that a capitalist should command on the field of production is now as indispensable as that a general should command on the field of the battle."¹²³ However, this power of command is not merely a technical function, it is rather, and at the same time, a "function of the exploitation of a social labor process."¹²⁴ The political analogy is taken to the extreme when Marx says that: "This power of Asiatic and Egyptian kings, Etruscan theocrats, etc., has in modern society been transferred to the capitalist, whether he be an isolated or, as in joint-stock companies, a collective capitalist."¹²⁵ As to the legal analogy or metaphor, the factory code is conceived as a "caricature," a code "in which capital formulates like a private legislator and at his own good will, his autocracy over his work people, unaccompanied by the division of responsibility, in other matters so much approved of by the bourgeoisie, and still unaccompanied by the still more approved representative system. . . ."¹²⁶

The main point of my argument is that the power of command in the workshop is not political power in any metaphorical sense. It is as political as the power of the citizenplace, the power of the householdplace, the power of the worldplace or the power of any other structural place. They are different in their forms, as they derive from different modes of production (exploitation, domination, patriarchy, unequal exchange, fetishism of commodities and unequal differentiation), but this does not alter their political nature. On the contrary, such nature is not an attribute of any of them taken separately, it is, rather, the aggregate effect of the articulations among them. Similarly, the factory code is not law in any metaphorical sense. It is law, just as the law of the state is law. Moreover,

the fact that it is unhampered by the representative system of the citizenplace does not make it a caricature. The despotic law of production is a necessary condition of democratic state law.

The idea of conceiving regulation of labor in the factory as a form of law was originally hinted at by the Austrian Marxists, particularly by Max Adler¹²⁷ and K. Renner.¹²⁸ Adler is mostly concerned with the functional and structural relations between the prison and the factory, thus inaugurating a line of research that was later on pursued by the Frankfurt School through Rusche and Kirchheimer,¹²⁹ and most recently by Foucault¹³⁰ and Melossi and Pavarini.¹³¹ Closer to my concerns here is K. Renner's political and legal conception of the organization of production. K. Renner is best known for his theory of property. According to him, the law of property originated in Roman law as "a person's all-embracing legal power over a tangible object,"¹³² but changed completely its social function in the transition from feudalism to capitalism, when the means of production became an object of private appropriation. While previously property rights granted to the proprietor a mere control over things, with the emergence of capitalism and the private appropriation of the means of production, the control over things was transformed, surreptitiously as it were, into a control over people, that is, a control over the workers operating the means of production through the contract of labor:

In the eyes of the law, the property-subject is related to the object only, controlling matter alone. But what is control of property in law, becomes in fact man's control of human beings, of the wage-laborers, as soon as property has developed into capital. The individual called owner sets the tasks to others, he makes them subject to commands and, at least, in the initial stages of capitalist development, supervises the execution of his commands. The owner of a *res* imposes his will upon *personae*, autonomy is converted into heteronomy of will.¹³³

According to Renner, the most relevant aspect of this transformation is that the right of ownership assumes a new social function without any change in the norm itself. As the literal formulation of the norm does not change, the change in its social function remains ideologically hidden. This social theory of property is complemented with a political and legal conception of the organization of production, a lesser-known aspect of Renner's work, but particularly relevant for my argument here. In his view, the regulation of labor inside the factory under the command of capital is a delegated public authority, since "the institution of property leads automatically to an organization similar to the state."¹³⁴ Accordingly, "the factory is an establishment with its own code with all the characteristics of a legal code."¹³⁵ Renner sharply criticizes lawyers and legal doctrine for not taking into due account this legal reality: "we see further that this regulation of power and labor remains concealed to the whole of bourgeois legal doctrine which is aware of nothing but its most formal, general and extraneous limitations."¹³⁶ But in spite of pointing in the right direction, Renner's conception must be criticized on three accounts. First, he takes too far the identification of law and power of the state with law and power of the factory. He fails to recognize the structural dif-

ferences between the state and the factory as two institutional forms and, consequently, the structural differences between the two forms of law and social power through which they operate. In my view, such differences and their articulation are what characterizes capitalist societies most specifically. Second, Renner conceives power and law in the factory as exclusively coercive. It is true, as I have already mentioned, that production and labor are tightly organized and disciplined in capitalism, as never before. This, however, does not mean that such organization and discipline are only made effective through coercion. Third, Renner neglects the historical specificity of capitalism, as when he says that "the employment relationship is . . . a public obligation to service, like the serfdom of feudal times."¹³⁷ This is obviously not true. What differentiates capitalism from feudalism is precisely the privatization of the political power over production, which separates the control over production from the performance of public functions and communal services typical of feudalism.¹³⁸

In more recent times, Burawoy has presented the most forceful argument in favor of a broad political conception of the labor process. Resorting to the Gramscian concept of hegemony, Burawoy shows that the specificity of the capitalist organization of production is that it must elicit, in order to be efficient, the active consent to and the participation of workers in their own exploitation.¹³⁹ This conception is rendered by the idea of the factory as an "internal state," an idea that, as we saw, goes back to Renner, at the same time that it echoes explicitly Selznick's theory of industrial justice.¹⁴⁰ Burawoy's main thesis is that the despotic form of production relations in the phase of competitive capitalism has evolved, in the phase of large corporations and trade unionism, into a hegemonic form, resting "on a limited participation by representatives of labor in the government of industry."¹⁴¹ This evolution is captured by the concept of the "internal state," by which he means: "the set of institutions that organize, transform or repress struggles over relations in production and relations of production at the level of the enterprise."¹⁴² The most important among such institutions are the collective bargaining and grievance procedures.

I would like to qualify this stimulating analysis of the labor process with two critical observations. First, though Burawoy, in contrast to Selznick, emphasizes that the politics of production is subjected to the logic of securing and obscuring the extraction of surplus value, he takes too far, in a direction opposite to Renner, the identification of the politics of production with global politics or, in my conception, the politics of the workplace with the politics of the citizenplace. The structural difference between the two lies precisely in the presence in only one of them of the logic of securing and obscuring the extraction of surplus. Such is the difference which, to my mind, accounts for the despotic nature of the political and legal forms of the workplace.¹⁴³ This by no means contradicts the presence of hegemonic or consent components, which, as we well know, after E.P. Thompson¹⁴⁴ and Douglas Hay,¹⁴⁵ were also present in the despotic laws of the *ancien régime*. Coercion and consent, though present in both the workplace and the citizenplace, are different in their form and mode of production, and combine in the two structural places according to different logics. There are different hegemonies in society (family hegemony, state hegemony, factory hegemony, market hegemony, community hegemony, national hegemony and world hegemony) and

they are not necessarily congruent.¹⁴⁶ Neither Burawoy nor Meiksins Wood,¹⁴⁷ who has also in recent times argued in favor of the political character of production relations, conceptualizes the specificity of state law in adequate terms. Burawoy accepts implicitly the base/superstructure framework, and Wood relapses into it, ending up by hesitantly locating part of state law in the base, and part in the superstructure.¹⁴⁸ The second critical observation is that, due to the relative collapsing of the different power forms, Burawoy neglects the central question of the articulations and constellations among them.

The reinterpretation of the legal and political nature of the workplace undertaken in this section on the basis of Marx's analysis of the factory laws and its prolongations in the work of the Austro-Marxists (Adler and Renner) and of Burawoy only illustrates, as I cautioned at the outset, some very partial aspects of the alternative framework presented in this chapter. To be sure, factory laws would invite a much wider view of the interplay among the six structural places, but Marx's analytical priorities did not favor it. Here are just a few glimpses at the wider panorama. First, the special legislation on women's and children's labor presupposed a new articulation between the householdplace and the workplace. Second, the fraction of capital that benefited most from the factory legislation was the most active in the world expansion of British capitalism; it was therefore interested in shaping the workplace (and indirectly all the other structural places) in ways congruent with the workplace they wanted for British capitalism and for British society as a whole. Third, even a quick visit to the new industrial cities would show that class exploitation went hand in hand with nature degradation, which confirms that the social construction of the capitalist wage worker and of "capitalist nature" are the two sides of the same historical process. Fourth, the fact that the workers were not yet consumers of the products they produced was a determinant of the marketplace relations and of its interplay with the other structural places. As an example, the coexistence of "precapitalist" markets (household or community based) with "postcapitalist" markets (workers' consumer cooperatives and international solidarity exchanges) reveals how, in a highly turbulent context, the marketplace manages to constellate household and community relations with international anti-systemic relations. Finally, the massive dislocations of workers and their families in search of work, the uprooting of traditional communities and their devaluation in a national (in reality, multinational) territory symbolically consolidated by the ideology of nationalism, on the one hand, and the regionalist resistances beyond many of the workers' struggles, as well as the reinvention of communal values, practices and identities in the new settlements, on the other, signal confrontations and new constellations of social practice between the community place, the citizenplace and the workplace.

CONCLUSION

In this chapter I have presented an alternative theoretical framework to the conceptual orthodoxy centered around the state/civil society dichotomy. The main features of this framework are the following. Capitalist societies within the world system are constituted by six structural places, six basic clusters of social rela-

tions, which define the horizon of relevant determination. This horizon establishes both outer limits and possibilities, thereby allowing for a minimalist order, a chaos-friendly order, an ordering principle that operates through complexity, fragmentation, hybridization and, above all, through constellation. Within this structural horizon there is contingency and creativity.

The structural places are complex relational entities, constituted by six dimensions. The structural places are autonomous, and have a specific developmental dynamics. But each partial dynamics can only be set in motion in social practice, in articulation or constellation with all the other partial dynamics. This does not mean that the structural places, when taken individually, are partially dynamic, but rather that, in concrete social fields, their dynamics always transcend them, and therefore cannot be controlled in any one of them separately. Not all structural places are always present in the same quantitative or qualitative way in all constellations of social relations or in all social fields. Constellations vary widely across the social fields—according to their privileged relation with or proximity to a specific structural cluster—and across the world system—according to the core-semiperiphery-periphery hierarchy.

In this chapter I drew attention to three such dimensions—power form, legal form and epistemological form—and dealt with the first two in greater detail. In the course of my analysis I tried to isolate what I believe to be the two main characteristics of capitalist societies. On the one hand, capitalist societies are political constellations of six main forms of power, legal constellations of six main forms of law, and epistemological constellations of six main forms of knowledge. On the other, capitalist societies are characterized by a hegemonic, ideological suppression of the political character of all forms of power except domination, of the legal character of all forms of law except state law, of the epistemological character of all forms of knowledge except science.

These two characteristics are equally crucial for the normal reproduction of capitalist societies in the world system. My argument is that the political character of social relations of power does not lie in one particular form of power, namely citizenplace power (domination), but rather in the aggregate power resulting from the constellations among the different forms of power in different social fields. Similarly, the legal character of social relations of law does not derive from one single form of law, namely from citizenplace law (state law), but rather from the different constellations among different forms of law. Finally, the epistemological profile of social relations is not provided by one specific epistemological form, namely the epistemological form of the workplace (science), but rather by the different constellations of knowledges that people and groups produce and use in concrete social fields.

The political, legal and epistemological constellations have two features that I have specifically emphasized. The first one is that the different forms of power, law and knowledge that integrate them respectively are structurally autonomous, each one irreducible to any one of the others. My major criticism of Renner and Burawoy was that it is as important to recognize the legal and political nature of workplace relations as it is to recognize that their (partial) legal and political character is structurally different from the legal and political character of citizenplace relations. The second feature of the political, legal and epistemological constella-

tions is that, in the immense variety of concrete constellations they give rise to in concrete social fields, one specific form tends to be more pervasive and more widely diffused: domination in the power constellations, state law in the legal constellations, and science in the epistemological constellations. The centrality of domination, state law and science in capitalist societies does not derive from their exclusivity over specific social relations, but rather from the pervasiveness of their presence in social relations as a result of the development of capitalist modernity. They are cosmic forms whose cosmic operation is premised upon their virtuosity in constellating with chaotic forms.

The second structural characteristic of capitalist societies is that the existence of these constellations of power, law and knowledge is ignored, occulted, suppressed by a whole range of hegemony strategies which convert the reduction of politics to the citizenplace into political common sense, the reduction of law to state law into legal common sense, and the reduction of knowledge to scientific knowledge into epistemological common sense. These multiple hegemonic reductions are not just illusions, manipulations that are easy to discredit or to dismiss. Once they become common sense, they are not just necessarily illusory, they also become necessary as illusions. They become embedded in the social, political and cultural habituses of people and of social scientists as well, and as such, they guide social practice, create comforting order, produce reassuring labels for self-mapped spaces (politics here, law there, science over there). The political, legal and epistemological reproduction of capitalist societies depends heavily on these hegemonic evidences.

If it wants to be socially effective, critical theory cannot rest content with merely identifying the structural map of capitalist societies, nor with unveiling the mystificatory nature of the common sense that both lubricates and occults (and lubricates by occulting) the complex constellations of power, law and knowledge. It must rather become a new, emancipatory, common sense. The difficulty, however, is that it is not through theory that theory can become common sense. And the difficulty is all the greater (even greater) because it is rarely recognized by social theorists. The idea that critical theory does not need to become common sense in order to be socially validated is one of the most entrenched and mystifying common senses of critical theory. It is indeed this common sense that makes modern critical theory modern. Postmodern critical theory, on the contrary, starts from a kind of preposterous self-critique, with the purpose of bringing its emancipatory claims down to adequate proportions. Only by fighting its own common sense does it discover the other common senses it must fight. Its contribution to a new, emancipatory, common sense, or rather, to new, emancipatory, common senses resides, first of all, in identifying and characterizing the constellations of regulation, that is, the multiple sites of oppression in capitalist societies and the interlinkings among them. It resides also in identifying and characterizing the plurality of social agents, social tools and social knowledges susceptible of being mobilized into constellations of emancipatory relations. The inventions of meanings emerging out of these constellations are the seeds of new common senses. In this chapter I was mainly concerned with the constellations of regulation. In Chapter Eight the focus will be on the constellations of emancipation.