

THE EMERGENT WORLD FEDERAL * CAPITALIST SYSTEM AND ITS IMPLICATION FOR CONSTITUTIONALISM *

PERFECTO V. FERNANDEZ **

In my previous lecture, which is my second as Holder of the UP Alumni Foundation Professorial Chair in Jurisprudence, I presented the theory of the emergent world federal capitalist system as a framework or model for review or re-assessment of contemporary legal experience. In that lecture, I dwelt on the implications of the world federal capitalist system for International Law. I pointed out, first, that classical international law had its physical foundation or basis in a family of nation-states whose mutual independence was a social reality evidenced and maintained by a balance of physical power. In the capitalist world, this system of independent nation-states has now disappeared. On the one hand, the new nuclear and missile technology has created a virtual monopoly of thermonuclear terror, and intended or not, the over-all military capability within the capitalist orbit is directly or indirectly in the control of the United States. It is no small irony that under the umbrella of nuclear deterrence which is the heart of that military capability are cozily cuddled together in lamb-like amiability all those nations whose incessant wars have darkened the pages of world history for the past three hundred years. The principle of national independence may not long survive the enervating shadows of the nuclear shield. Equally propulsive towards federalization is increasing integration of the economies of capitalist states. There has emerged with some distinctness an international economic order transcending national as well as regional boundaries. The central institutions of such economic order are a world market and a federal currency. The stability of these institutions require a framework of collective authority and responsibility on a global scale.

The primal forces, then, underlying the emergence of the world federal capitalist system are military dependence on the nuclear capability of the

* Third Lecture, UP Law Alumni Foundation Chair of Jurisprudence.

** Professor of Law, University of the Philippines.

United States and economic interdependence and dependence within the capitalist orbit. Because collective security and collective economic stability are concerns global in scope, the emergence is inevitable of a unifying structure capable of adequately discharging or performing these functions and tasks. The centripetal forces we have mentioned are reinforced by the challenges posed by the socialist bloc, whose territorial gains necessarily lead to a corresponding shrinkage of the capitalist world.

If this thesis be correct, that a new Leviathan has emerged, straddling and encompassing most of the six habitable continents, then, the consequences for International Law are clear. International Law, in its classical concept, is in desuetude; it is increasingly a historical legal order. For the most part, its persistence lies in forms and in the rituals of diplomatic relations that often mask the realities of power and assuage the sensibilities of those subjected to its urgencies and pressures. One remaining field of viability may be the relationship between the socialist and capitalist blocs. While this is both interesting and significant, we must keep our eyes in the larger canvass. The result we see is that the classical rules of international law are now steadily being supplanted by rules articulating the interests of the new federal order. In my lecture, I referred to the emerging federal legal order as the new *Jus Gentium*. Like its namesake developed by imperial Rome, the new *Jus Gentium* is being fashioned consciously out of the old, using its concepts and terminology but with a different content. How far a new federal law, using the terminology and techniques of conventional international law, has been developed, aimed basically at a homogenization of rules affecting international investments and transactions, should be an interesting and challenging subject for a doctoral dissertation. At any rate, such systematization, in the manner of a tentative *Corpus Juris*, would merely confirm what is known today in contemporary legal experience. There is no serious practitioner of law who would give advice on proposed international business transactions or economic ventures solely on the basis of the principles of class International Law. Necessarily, if competent, he would resort to current conventional or treaty law in its various forms, including regional, multilateral and bilateral trade, tax, and other agreements. The tenacity with which the academics cling to the treatises of established writers in international law may be merely the inertia of habit; it is an idiosyncrasy that cannot validate where the robust instinct of law practitioners pronounces a *de facto* desuetude or obsolescence.

There is, of course, the facile resemblance that easily misleads. Current conventional international law, after all, takes the forms of treaties

and their variants. Here, there is persistence of form long after the substance has changed. Agreements are law founded on consensus, but consent must proceed from those who are both free and equal. This is the factual premise that has disappeared.

Hence, current conventional international law is no different from contracts of adhesion in domestic law; they are rules of legislative character, dictated or prescribed by the dominant or stronger party, doubtless primarily in its interest. Except for the small decencies of form, ritual and ceremony, they are unilateral enactments of a single will, hence, preceptive and legislative, rather than truly conventional.

If the new Leviathan, to repeat the Hobbesian metaphor, can be thus profoundly transforming with respect to the international legal order, what would be its impact upon the national legal order of each country within the capitalist orbit? In this lecture, we shall discuss the implications of the emergent world federal capitalist system on constitutional government as this is known in the capitalist world. The thesis may be simply stated. The emergent world federal capitalist system has an inner logic. The direction or push of such inner logic is towards an over-arching federal machinery capable of maintaining collective security and of asserting effective regulation demanded by the stability, perhaps growth, of the world market. The over-all impact of such regulatory activity on a global scale is two-fold. In the countries of the Industrial North, which collectively control the federal machinery, the leadership will increasingly develop and manifest a global, as opposed to a domestic, orientation, concern and outlook. In the countries of the poor South (referred to collectively as the Third World in contemporary literature), the cumulative pressures of federal institutions and regulations operating on conditions of internal crisis will compel political re-adjustments towards the installation of regimes hospitable to federal interests and policy.

Over-all, there will be restructuring of constitutional systems in the capitalist orbit. In countries of the Industrial North, this will be in the form of the primacy of the Executive Branch, and the corresponding subordination of the two other branches in the tripartite system of government. In countries of the Third World, the political restructuring will generally take the form of constitutional dictatorships, operating as a matter of deference to the ~~hypoeracies~~ ~~of the~~ Industrial North, through parliamentary forms of liberal democracy.

The thesis may be more simply stated. As the capitalist world moves towards a federal system, the resultant integration under an over-arching institutional framework will surely bring about structural modifications in the constitutional governments of the component states, with more and more power going to the Executive at the expense of the two other branches, thereby profoundly altering the tripartite system of government, and disrupting, in varying degrees, the constitutional balance characteristic of classical republicanism. In other words, over-arching federal power will engender or generate within the different domestic jurisdictions a political centralism essential for greater responsiveness to the interests and mandates of the new federal order.

In the elaboration of the above thesis, the argument will center on the following points. Formidable challenges, external as well as internal, have propelled and will propel the Industrial North towards a more inclusive and effective order aimed at the preservation, stability, and strengthening of global capitalism. Within the federal order that has emerged, there is a distinct segmentation into two key sectors: the Industrial North, which is affluent, and the Undeveloped (or if you will, the Developing) South, which is generally poor. Between these two segments, the overall relationship is not interdependence but the dependency of the South upon the North, and the dominance of the North over the South. This dominance has both military and economic aspects, which are directly experienced in the dependent countries of the South. In terms of impact and result, the dominance operates most forcefully upon the ruling elite in each dependent country. It is the addiction of the elite to the products and technology of the North (the outcome of the massive cultural conditioning of the past two decades) which is the propulsive force for the massive import-export trade characteristic of the dependent economy. Ironically, it is this *comprador* type of economy that inevitably produces the socio-economic imbalance reflected in mass poverty and underdevelopment, and breeds insurgency threatening the continued rule of the elite. The result is military dependency on the North, which under prevailing arrangements transforms the native armed forces into auxiliaries of the federal military organization. The compulsions of economic dependency, which is generated by appetite and greed, and of military dependency, which is generated by fear, or a series of crises ineluctably bring about a crisis. As you know, crisis imposes irresistible urgencies. Such urgencies in turn create bargaining power for the Industrial North in effecting, within each dependent country, institutional and policy accommodations congenial to federal interests. These interests are now clearly identified and widely known.

Chiefly, these are open markets for imported goods from the North, access to raw materials and natural resources of the host country, and an open door for foreign investments. While the ruling elite, under painful pressures flowing from their situation of dependency, may find such arrangements acceptable, barriers and countervailing pressures posed by existing legal and political institutions, have created difficulties either in the adoption, or in the implementation of such policies. Such constraints can be truly formidable in the case of stable constitutional regimes. Hence, far-ranging changes must be effected in the existing political and legal structures in order that amendment or expurgation may be made of existing policies contrary or inimical to federal interests. Regardless of the particular forms which such changes may take in particular domestic jurisdictions, they must in substance (1) eliminate or modify inhibiting policies in the fundamental law and (2) without undue sacrifice of constitutional forms, institute a powerful government insulated from popular pressure (at least for a period of time) headed by an Executive independent of the legislature and the judiciary, and insulated from institutions of popular pressure or control. Necessarily, such restructuring of any constitutional system will entail substantial departure from the principles of classical republicanism. There will be sacrifice of the institutions of tripartite system of government, including legislative control of policy, judicial review, and checks and balances among the three branches. There will be suppression, in full or in part, of such institutions of popular control as political parties, popular elections, trade unions and mass media. The over-all result would be to create within each domestic jurisdiction an authoritarian regime flaunting the standards of republicanism, made all the more insidious in the manner of Augustus Caesar, through unctuous deference to constitutional symbols, forms and rituals.

We now take up the main points of the argument.

The segmentation of the capitalist world into the Industrial North and the Undeveloped South is a contemporary reality that needs no authentication nor elaboration. The external indicia supporting such classifications are backed by indubitable statistical data. In the economies of the Industrial North, industrial production is the principal component of the gross national product; in the economies of the Undeveloped South, it is agriculture and other extractive industries that takes up the greater proportion. In the economies of the Industrial North, the domestic market value takes a very large share of the total production; the foreign trade sector is a thin slice of the gross national product. In sharp contrast, in the economies of the

Undeveloped South, the internal market takes a much smaller percentage of the GNP; and the foreign trade sector is a substantial component. Indeed, by itself, the proportion of total foreign trade to gross national product is a good measure of the autonomous or dependent character of the economy. The greater the foreign trade component, the more acute is the dependency, since foreign trade (both exports and imports) involves a wide range of variables beyond the control of the national authority.

The segmentation of North and South has historical roots; it is the outcome of the colonial period that started in the sixteenth century and ended only after World War II. It is during this period that the patterns of trade relationship now obtaining between North and South were established and developed. As industrial nations such as Great Britain, Germany and the U.S. became colonizers (displacing the feudal colonizers such as Spain and Portugal), the dominating considerations became economic. Colonies provided sources of raw materials, markets for finished goods, settlements for surplus population of the colonizer, and investment or business opportunities for colonials. Necessarily, production for the most part was the extractive type, yielding raw materials for export. Many of the plantations, mines, timber concessions, etc. were owned or controlled by the colonials. Manufacturing was directed mostly towards exportable products, needed in the Industrial North. For the most part, these enterprises were also in the hands mostly of the colonials. In the trading centers of each colony, great trading or commercial houses eventually developed. Through them, the raw materials and other produce of the colony went to the Industrial North; and through them, finished products from the North were imported, and dispersed throughout the colony through a system of wholesale and retail outlets. Hand in hand, banks and other finance structures developed to handle the financial aspect of the export-import trade, and to facilitate investments in extractive enterprise. Throughout the South, the economies that developed had substantially the same features: production was extractive for the most part, and oriented to exports; there was a heavy inflow of imported goods from the North; and the most important sectors of the economy, including banks, trading houses, milling companies and utilities, were in the hands of colonials. Once developed and functioning, the *comprador* system, although hitched to and deriving its motive power from the trade with the North, had a momentum or inertia of its own. A good example is provided by South East Asia. During World War II, although many of the plantations were cut off from the North, they did not entirely stop; they continued operating, although production declined. As soon as

the war ended, and order was restored, the export industries were revived and expanded, trade with the North was resumed and intensified, and within a decade, the pre-war *comprador* economy had been fully restored or even expanded. The dependent status established before the war was resumed. There is some irony here because in the decade following the end of the Pacific War, most of the former colonies had attained independence. While on the one hand, these colonies enjoyed in large measure, self-rule under constitutions and governments patterned after models in the North, they had the same *comprador* system of economy that prevailed during their colonial days. As elsewhere in the South, the resultant disparity between political independence and economic dependence, with its attendant incapacities and privations, was, it continued to be, a fruitful source of popular discontent and instability. The impetus of legitimate aspirations, often styled the "revolution of rising expectations," was and continues to be thwarted by chronic underdevelopment and mass poverty. The persistent quest for national prosperity and individual progress, nourished by the extravagances of political liberty, is time and again confronted by the ineluctable reality of economic stagnation. Popular frustration, in this respect, is exacerbated and propelled towards insurgency by the glaring disparities of a segmented society. For in the undeveloped South, the national economies are each bifurcated into an affluent segment, led by the ruling elite, and a depressed segment, often territorially extensive, and populated in large measure by masses of illiterate peasantry.

While the segmentation is a historical outgrowth or development of the colonial period, its durability or persistence is due or attributable, in a very large measure, to pressures or constraints flowing from the over-all structure of the North-South relationship. Let us identify these pressures or constraints. Within the affluent segment of the economies in the South, we find two principal sectors: import and export sectors. For various reasons, the import sector is constantly expanding. The main propulsive force is the voracity for products of the North, particularly on the part of the ruling elite. As the ruling elite grows due to normal population increases, the volume of imports likewise increases. Within the import sector, the rise of manufacture, whether import substitution or of indigenous materials, likewise increases imports in the form of capital goods, including machinery, parts and processed materials for conversion into finished goods. Public expenditure for infrastructure projects, whether financed from taxes or from foreign loans, also entails importation of heavy machinery and industrial goods of all kinds. Within the export sector, substantial importation is required of plants, machinery, equipment and other capital goods.

The confluence of these demands leads to the steady expansion of the import sector, with corresponding acceleration in the expenditure of foreign exchange.

In very sharp contrast, the export sector although expanding in the long run suffers from chronic instability. There are slumps or falls in demand due to over-all over-production, competition from substitutes, recession in the importing countries, or imposition of quota allocations. Then, unlike the import sector, the export sector is unable, due to inherent factors, to respond rapidly to any increase in demand. While any deficiency in the supply of imported consumer goods can be made up very easily by direct importation of finished goods, there is always in the export sector a substantial time lag between the start of new production and availability of new products.

Over and above the causes or factors we have mentioned, the situation is aggravated by gross disparities between the price of imports and the price of exports. Even in the best of conditions, the prices of manufactured or industrial goods are always much higher than the prices of raw materials. The gap between these two sets of prices is heightened by increasing prices in case of imports from the Industrial North, and slump in demand for raw materials from the South, with consequent fall in prices. Such disparities find expression in the chronic balance of payments deficit on the part of the Southern countries. In brief, the heavy demand for imports, which tend to cost more and more, and the erratic performance of the export sector, which suffers from slumps in demand and falls in prices, generally bring about the situation in which the countries of the South spend more on imports, sometimes much more, than they earn from exports. The shortfall between foreign exchange remittances is generally covered-up by foreign loans or borrowings on a short-term basis.

For a more adequate picture of the over-all situation, other relevant factors must be added to the basic sketch we have so far drawn. Hand in hand with foreign loans, foreign investments come in. Generally, loans coming in from the North on a regular basis are conditioned on the opening up of the country to foreign investments. These investments may go to the export sector, for setting up mining, lumbering, agriculture and other extractive industries. Or such investments may go to the financing or processing branches of the import sector. In the case of processing establishments, investments may take the form of local branches or subsidiaries of foreign companies, or the form of joint ventures with native entrepreneurs,

under licensing or franchising agreements. The resultant conditions generate additional demands for remittance of foreign exchange, or aggravate previously existing demands, thereby providing fresh impetus towards greater expenditures of foreign exchange, and tending to widen the gap between receipts and remittance. Let us particularize. The resident foreign colony that developed hand in hand with the *comprador* system, increases and expands with the influx of foreign investments, thereby adding considerably to the demand for foreign goods, particularly in the way of comforts and luxuries. Foreign loans, especially of the non-revenue producing type, such as those for infrastructure, education, family planning, etc. impose substantial demands on foreign exchange through payments of the interest and repayments of the principal. Foreign investments likewise entail further substantial outlays of foreign exchange. Often, the investments generate continuing demands for imports, by way of machinery, parts, processed materials, etc. This is specially true of the import substitution type of enterprise, such as we see prevalent in the drug industry. Investments also entail remittances of profits earned in domestic operations, and eventually remittances upon repatriation of capital. Those involving manufacturing or processing operations pose the additional problem of transfer pricing, by which the prices charged to imports of subsidiaries or branches are much higher than those prevailing for similar goods in the home country or in the world market. Similarly, foreign investments in the export sectors may also pose the problem of underpricing of exports of raw materials, with resultant diminution of foreign exchange receipts.

The cumulative thrust of these conditions is to aggravate the shortage in foreign exchange. It is this condition of the "dollar gap", definitely chronic and apparently with a tendency to aggravate periodically into a "dollar crisis", which is the basic propulsive force of continuing dependency and underdevelopment of countries in the South. In the manner of a macro-scale Pandora's box, the "dollar gap" brings about a whole train of economic and political woes. Because of the massive urgencies created by the gap, there is a continuing dependency on infusion of capital from foreign loans and investments, which tend to perpetuate the *comprador* system. The commercial-industrial loans are used mainly for imports. Loans of the non-revenue producing type likewise are used mainly for capital imports, especially of machinery. Foreign investments that go into the import sector are utilized for bringing in finished goods, or for machinery and materials entailed by import substitution manufacture or processing. This type of investment generates, by its own nature, higher demand for importation, in the form of more machines, more parts and more materials.

Investments in the export sector are used for developing extractive industries, such as mines, plantation, lumber concessions, etc., hence, these go mostly to imports of heavy machinery.

Development then tends to take two forms. One is manufacturing of the import substitution type, which is actually, disguised imports of foreign goods. The other is export industry, which may consist of extractive enterprises, such as those in mining, agriculture or lumbering, or of manufacture of software goods involving or requiring low-grade technology. Thus, the *comprador* economy expands but its basic segmentation and essential nature remain. Industrialization requires development of basic industries, but these cannot develop for two reasons. There is simply no capital made available for this purpose. Foreign capital, as well as local capital, go to trade (import-export), with its adjuncts of finance and extraction and/or processing, because of the high profit yield within a relatively short time. Even more important, basic industries would compete directly or indirectly with the industrial products of the North; hence, there simply would be minimal or no markets for the output or produce of such industries. The tariff system in the North encourages production of exportable raw materials or software goods, and discourage high-technology goods. The domestic or internal market of each country in the South is generally too small to permit viability of any basic industry; and because of existing trade patterns that obtain between the North and the other countries of the South, there is likewise no market in the Southern countries, the same being pre-empted by imports from the North. The resulting phenomenon is continuing poverty despite an expanding GNP.

We now consider the impact of such economic and military dependency on the North, upon the national policy of Southern countries. Basically, the interests of the North demand or require, within each country in the South, first, an open economy; and second, a government responsive to the interests of the North. The requirement of an open economy is essential to the workings or operations of a world market. Each economy must be open to imports of finished and industrial goods, as well as excess capital, from the North. The country must make available raw materials and produce needed by the North. To this end, it must open up its natural resources to development by foreign capital. It must be also open to foreign investments in manufacturing or processing as well as financing branches of the import sector. In short, the maintenance and expansion of the *comprador* system.

At this point, conflicts of a fundamental character arise. National aspirations, kindled by the struggle against colonial domination, and fueled by populist support after political independence, provide an irresistible orientation of native governments in the South towards economic nationalism. The resultant national policies generally reflect basic patterns. First is nationalization of resources. Generally, such resources are open to development and exploitation only by nationals. Second is nationalization of key sectors of the economy. Public utilities, banking, education and media are among the investment fields reserved to nationals, or to entities controlled by such nationals. Third is a positive bias against foreign investments, expressed in a complex web of regulations and restrictions. Fourth is a positive bias against the entry of foreigners into the work force, not only in the area of the professions, but into the nationalized sectors of the economy. Patently, these policies collide with, and militate against, the interests of the North as above outlined. Between the concept of the nationalized or heavily nationalized economy, which economic nationalism imposes, and the concept of open economy, which is required by the interests of the North, obtains a repugnancy beyond remedy or reconciliation. It is this repugnancy that creates the dilemma for constitutional governments in the South, and accounts for the profound confusion underlying their contemporary policies.

In the standard model of constitutional government prevailing in the South, which is a transplantation from the North, the heart is a tripartite system of representative government founded on popular consent expressed through elections and public opinion. Whether presidential or parliamentary, the political branches are subject to popular control through limited terms in office, and periodic elections for the highest political offices. Such formal popular control is reinforced by the pressures of public opinion, through the agencies of the mass media and the popular freedoms of speech, associations and assembly. Popular control of government is further aided by accountability of both the Government and its officials under the law, as determined by an independent judiciary upon complaint of citizens. The over-all effect of such multiple systems of popular control, is to give the native populations, particularly the electorate, substantial, if not decisive influence, over the direction, shape and content of national policy.

At bottom, then, the choice between a nationalized economy, as demanded by nationalist aspirations, and an open economy, as demanded by federal interests, poses a fundamental issue of control over government which defines national policy. Here, the segments we have noticed earlier

acquire political significance. Essentially, the conflict is between the affluent segment, which is dominated by the ruling elite, and the depressed segment, which consists mainly of workers and peasants. If the depressed segment continues to exert a decisive influence through elections, political parties, and popular freedoms, economic policy will be nationalist and will continue to be hostile on essential points to the interests of the North. On the other hand, if decisive political control over government passes over to the affluent segment, economic policy will be in elitist hands and substantial accommodations in the direction of an open economy will take place.

We have seen that in the standard model of constitutional government, popular control of government is maintained by the institutions of limited tenure of officials, periodic elections, political parties, public opinion, and independent judiciary, which enforces accountability under the law. So long as these institutions are working or functioning, the government will be substantially under popular control. To remove government from popular control, it is then indispensable that most, if not all, of these institutions should be rendered inoperative. Only then, will the government come under elitist control.

To bring the government under elitist control, it is then necessary that the following changes should take place in the political system:

1. The political leadership should be continuing, and therefore tenure in office should be indefinite.
2. There should be no elections, or at least elections that will effect changes in the political leadership.
3. Political parties with a nationalist orientation should not be allowed to function. This is indirectly attained if no elections affecting the national leadership are held.
4. The agencies of public opinion, particularly the mass media, should be kept under a system of censorship, direct or indirect.
5. Mass actions in the exercise of civil liberties should be prohibited.
6. The judiciary should be kept under control, direct or indirect, by the political leadership.

Once these changes are reflected in actual arrangements, popular control is suspended and the government is withdrawn or removed from popular pressures. It should be emphasized that the change is basically of substance, but not of form. Basically, the constitution remains the same, with characteristic provisions on the bill of rights, popular elections, representative

branches of the government, and an independent judiciary. In the actual operation of the government, however, these institutions are either suspended, or modified, in practice, as required by the circumstances. Thus, the institutions of representative government and liberal democracy continue their formal existence but disappear in actual operation of the government. While on paper, the government remains representative and liberal, in practice and actuality, it has become authoritarian and militarist. From a government founded on popular consent, it becomes a government founded on authority and military power.

Authoritarian regimes that emerge from constitutional democracies fall into two general types. First is the military dictatorship, which by revolution or bloodless *coup* has taken over the government, and second is constitutional authoritarianism which justifies its legitimacy by invoking constitutional provisions on martial law or national emergency. Whatever be the type, authoritarian regimes are founded on military power. Hence, the support of the armed forces is indispensable to their existence and their continuance.

Let us now state briefly the complex of conditions, which in terms of social causation, collectively trigger in countries of the South. Under a Constitutional system, with institutions the shift towards authoritarian regimes of liberal democracy, the ruling elite finds the government steadily and relentlessly beset by the following problems:

1. Very limited growth of the economy. Apart from the built-in limitations of the *comprador* system, it is burdened with generally primitive agriculture, low labor productivity, and increasing population. Various restraints limit foreign investments, and conditions are not favorable for foreign loans.
2. The fragmentation of the society into the affluent few and the impoverished many. Essentially a product of the colonial period, such fragmentation is exacerbated by populations pressure, short-falls in agriculture production, slumps in the export sector, etc. As a consequence, social agitation, unrest, and conflict is endemic, often degenerating into open social disturbances, insurrections or rebellions. As noted, this subjects the ruling elite to increasing military dependence on the North.
3. Modifications in existing policy are difficult and slow, due to built-in checks and balances in the constitutional system. Policies can be erratic due to changes in administration, popular pressures, and political considerations. Corruption is widespread. The civil service suffers from political

interference, misfits and redtape. Political parties split into factions, and elections increasingly become a farce. Over-all morale in the society plummets. Public confidence in government is low, no one seems to be in charge, and the over-all mood seems to be one of drift.

Inexorably, then, the inner logic of the North-South relationship precipitates, within countries of the South, conditions of crisis which propel societies with institutions of liberal democracy towards a state of emergency, leading to a military take over or to a constitutional dictatorship. To avert a breakdown or collapse, the new regime must meet the great economic needs which, in the crisis, have risen to the highest pitch of urgency, and to this end, must restructure national policy towards positive accommodation to the interests of the North. The compelling exigencies of foreign loans, economic assistance, military assistance, and foreign investments excite a favorable response from the Industrial North, as soon as the new regime has provided good faith evidence of the new policy. As external support comes in, the immediate crisis is overcome, the situation is stabilized, and in the euphoria, partly induced by the unending self-congratulation emanating from the new order, acquiescence to the regime is, by inertia, converted to habit and gradually mellowed into acceptance. It is no small contribution to this process of legitimation that resistance to the usurpations of the regime is blunted by the confusion engendered in the public mind, by the regime's outward deference in the manner of Augustus Caesar, to the rituals and habiliments of classical constitutionalism.

Even as the over-arching framework, binding North and South towards a world federal capitalist order, imposes upon component societies in the South, a propensity towards domestic authoritarianism. The North, for all its affluence and privilege of command, does not entirely escape the distorting impact of the new world order. The incessant, gargantuan and complex demand of the world federal order, particularly in the intricacies of collective security, monetary reform, and economic stability, compels a pre-eminence and leadership on the part of chief executives of the leading industrial states, vis-a-vis domestic legislatures, as to institutionalize slowly but firmly, the principle of executive primacy, with the corresponding subordination, even if unacknowledged, of the two other branches. This developing modification of the principle of equality within the tripartite system of government is aptly conveyed by the phrase "Imperial Presidency", which is the title of Arthur Schlesinger's work on the steady accretion of power upon the Office of the President of the United States. This *de facto* development in the constitutional system of the United States has

been given a *de jure* status in France, where the Gallic forthrightness and imperial yearning in Marshal de Gaulle created a Presidency in the postwar constitution so powerful and pre-eminent in the over-all governmental structure as to evoke memories of royal or dynastic grandeur. The steady accretion to and growth of Executive Power, at the expense of the other two branches, is not so much a matter of will or ambition on the part of particular office holders, as an imperative dictated by the over-arching federal structure that has emerged. Because the concerns, interests and attendant problems with which they have to concern themselves are global in perspective and impact, the chief executives of the Industrial North must necessarily adjust to the new orientation, and increasingly think, act and respond according to the global responsibilities that have been thrust upon them. Steadily, they have had to assume, as they must, more and new powers in dealing with the collective problems before them, for necessarily, power must be adequate to responsibility. As Executive Power expands in practical response to emergent global responsibilities, the concern and power of legislatures correspondingly recede, for by the very nature of their respective constituencies, legislators all over the Northern States in their thinking and concern must predominantly reflect the domestic interests of their localities, or face the ultimate sanction of losing at the periodic polls. Increasingly, as we observe the social process in global perspective, we see events and development set in motion, and arrangements engineered or brought about, by the chief executives of the Industrial North acting in concert, obviously under the guidance and leadership of the President of the United States.

Let us sum up by noting the following points. Within the capitalist world, the new nuclear technology and the virtual thermonuclear monopoly of the United States has removed the foundation of a classical international law: the physical indestructibility of the State. Today, it is fully within the practical capacity of nuclear powers to annihilate any State and bring about its physical oblivion. The integrating power of nuclear monopoly is reinforced by the economic interdependence that developed after World War II, creating a new over-arching framework of collective power and responsibility embracing the entire capitalist world. This emerging political phenomenon I have called the "emergent world federal capitalist system." In juristic terms, the new federal order is steadily creating transnational rules which we may call the *Jus Gentium*, after the legal order fashioned by the Roman Praetor as the common law of Peoples to govern disputes affecting persons from different provinces or localities. As the new over-arching order promotes and asserts federal interests, the arrangements con-

genial to or promotive of the federal interests generate pressures for changes in the component societies.

Within countries of the South, authoritarian regimes arise displacing institutions of liberal democracy. This comes about as a result of national emergency, generated as much by internal systemic imbalances and deficiencies, as by external pressures and forces. Within the countries of the North, subtle but fundamental changes have taken place, and are taking place, in their constitutional structures. Because their chief executives have a new entirely different role as custodians of the new federal order, they have acquired a pre-eminence and leadership within their own governments, giving them a position of primacy, with corresponding subordination of the other two branches of government. Hence, the tripartite system of government is now modified to approximate older forms of government, such as the king in parliament, or the chieftain in the council of elders.

This prompts the question whether capitalism, like Revolution, must ultimately devour its libertarian progeny. Certainly, it would be tragedy for the liberal spirit if the tripartite system of government and other institutions of liberal democracy, which were generated and nourished by the *laissez faire* exuberance of capitalism in its infancy, are ultimately destined to become historical relics, ravaged by a relentless centralizing propensity of global capitalism.