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ANNUAL LECTURE

Embedded borderings: making new geographies of centrality

Saskia Sassen

ABSTRACT

Embedded borderings: making new geographies of centrality. *Territory, Politics, Governance*. The organizing thesis posits the emergence of specific operational spaces that recur in country after country but are not necessarily framed by national or international law, or by visible legal markers, even as they use particular national institutions such as laws and courts. These operational spaces contribute to the making of cross-border geographies that include only parts of national territories, often excluding most of the pertinent 'sovereign territory' that houses them. These operational spaces look like they belong to those countries as they are marked by thick territorial insertions: whether it is financial centres with their massive concentrations of buildings, or human rights activists tracking tortured bodies in prisons or abandoned fields. Yet, they are in fact tightly bordered territorial fragments that keep out what they do not want in. This specificity holds even for actors operating within a given economic sector, such as finance, where the two cases examined here – the financial 'system' and so-called 'vulture funds' – each has its own operational field. But it also holds for the operational spaces of actors as diverse as human rights activists and ISIS, to mention extremes, which I do not focus on here. The result is a proliferation of cross-border geographies constituted via specific components of each country; these geographies weave themselves across old divisions – north, south, and east–west. The actors in these new types of transversally bordered spaces range from small resource-poor organizations to powerful corporations.

KEYWORDS

operational spaces; territorial insertions; multi-state geographies; transversalities

摘要

镶嵌的划界：创造核心性的崭新地理。 *Territory, Politics, Governance*。 本文设想，反复出现于各国的特定运作空间正在浮现。这些空间未必由国家、国际法律或可见的立法机构所构造，即便它们需要使用特定的国家制度与机构，如法律与法院。这些运作空间使得跨边界地理格局得以成形。这一地理格局仅包含国家领土的部分组成部分，并将作为承载物的所谓“主权领土”排除在外。这些运作空间看起来属于那些以稠密的领土性介入——无论是高楼大厦大规模集聚的金融中心，抑或是追踪在监狱或荒野之地饱受折磨之人的人权活动人士——为特征的国家。然而，事实上，它们恰恰是有边界的领土碎片，将一切不欲之物排除在外。这一特殊性也适用于在某一经济部门内运作的行动主体，如金融业。本文检视了其中两个个案——金融“系统”与所谓的秃鹫基金——各有其运作领域。但是，这一特殊性亦同样适用于行动主体极为不同的运作空间，如人权活动人士与ISIS组织——这些是极端性的情况，本文的关注点并不在此。其结果是由各国特定组成部分所构建的跨边界地理格局的扩散；这些地理格局使其自身超越了旧有的划分方式——北方、南方，以及东方、西方。这些具有横贯性的新型有边界空间中的行动主体从资源匮乏的小型组织到强有力的企业集团。

关键词

运作空间；领土性介入；多国地理格局；横贯性

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RÉSUMÉ

Encadrements intégrés : La construction de nouvelles géographies de la centralité. *Territory, Politics, Governance*. La thèse de l'article concerne l'émergence de certains espaces opérationnels hautement spécifiques qui s'installent parmi plusieurs pays, mais qui manquent souvent une insertion précise dans la loi nationale ou internationale, ou dans d'autres indications de légalité, même si ces espaces se servent d'institutions nationales telles que la loi et les cours de justice. Ces espaces opérationnels contribuent à la construction de géographies transfrontalières qui incorporent seulement une portion des territoires nationaux en jeu, fréquemment excluant la grande partie de ces territoires souverains qui les contiennent. Ces espaces opérationnels semblent appartenir aux pays où ils fonctionnent, étant donné leurs insertions territoriales souvent robustes – qu'ils soient des centres financiers indiqués par leurs concentrations massives de bâtiments, ou qu'ils soient des activistes de la cause des droits de l'homme, cherchant des corps torturés dans les prisons ou sur des terrains abandonnés. Pourtant, ces espaces ont leurs propres frontières à l'intérieure des contextes nationaux qui leur permettent d'exclure tout ce que ne leur intéresse pas. Cela vaut pour les acteurs engagés dans le monde financier ample, dans lequel les deux cas en question, le 'système' financier et les soi-disant 'vulture funds,' ont chacun construit son espace opérationnel. Cela vaut également pour des acteurs aussi divers que les activistes pour la cause des droits de l'homme et l'EI: des exemples extrêmes sur lesquels je me ne concentre pas. Le résultat est une prolifération de géographies transfrontalières qui se composent des éléments spécifiques de chaque pays; ces géographies traversent nos anciennes divisions – du nord au sud, ou de l'est à l'ouest. Les acteurs dans ces nouveaux espaces transversalement définis vont d'organisations modestes jusqu'à des sociétés puissantes.

MOTS-CLÉS

espaces opérationnels; insertions territoriales; géographies multi-états; transversalités

RESUMEN

Fronteras arraigadas: La construcción de nuevas geografías de la centralidad. *Territory, Politics, Governance*. La tesis del artículo es el emerger de espacios operacionales altamente específicos en país tras país y generalmente sin encajes en la ley nacional o internacional u otros indicadores legales visibles, mismo si se benefician del uso de instituciones nacionales tales como la ley y las cortes de justicia. Estos espacios operacionales contribuyen a la construcción de geografías trans-fronterizas que incluyen solo una porción de los territorios nacionales en juego, y a menudo excluyen la gran mayoría del territorio de cada soberano que los 'hospeda.' Estos espacios operacionales parecen pertenecer a los países donde funcionan dadas sus robustas inserciones territoriales: sean centros financieros con sus masivas concentraciones de edificios, sean los activistas por los derechos humanos trazando cuerpos torturados en prisiones o en campos abandonados. Sin embargo, estos espacios tienen sus propios bordes al interno de los países donde operan, y excluyen todo aquello que no les es de interés. Esta especificidad se da mismo en el caso del mundo financiero amplio, donde los dos casos examinados aquí – el 'sistema' financiero y los fondos buitres– cada cual ha construido su espacio operacional específico, a menudo en conflicto uno con el otro.

PALABRAS CLAVES

espacios operacionales; inserciones territoriales; geografías multi-nacionales; transversalidades

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The multiple regimes that constitute the border as an institution in the current period can be grouped into two major formats. On the one hand, there is the formalized border apparatus that is part of the interstate system. And, on the other, there is an as yet far less formalized array of novel types of borderings that function largely outside the framing of the interstate system but are partly embedded in multiple, often very diverse, national legal systems. The first, the formalized apparatus of the interstate system, has at its core the body of regulations

covering a variety of international flows – commodities, capital, people, services, information. No matter their variety, these multiple regimes *tend* to cohere around (a) the state's unilateral authority to define and enforce regulations, and (b) the state's obligation to respect and uphold the regulations coming out of the international treaty system and bilateral or multilateral agreements.

The second case, bordering dynamics arising outside the framing of the interstate system, is the focus of this paper.¹ It is a type of bordering somewhat autonomous of national states and of the international system. These bordering dynamics are partly formalized, partly emergent, and partly not necessarily meant to be formalized nor to be particularly visible. My organizing thesis posits the emergence of specific operational spaces that recur in country after country but are not necessarily framed by distinct national or international laws or by visible legal markers, even as they use particular national institutions such as laws and courts. These operational spaces contribute to the making of sharply bordered geographies that include only parts of sovereign territories, often excluding most of the pertinent sovereign territory that houses those operational spaces. Further, these geographies cross multiple interstate borders with considerable ease. The actors in these new types of transversally bordered spaces range from small, resource poor activist organizations to powerful corporations; here I focus especially on the latter.

VULNERABLE TERRITORIES

There have been many epochs when territories were subject to multiple systems of rule. The gradual institutional tightening of the national state's exclusive authority over its territory takes off particularly after the First World War – even though the national project goes back centuries. In this regard, the current condition we see developing with globalization is probably by far the more common one, and the more exceptional period is the one that saw the strengthening of the national state.

The spaces that concern me here are above all marked by thick territorial moments. They include networked digital structures and interactive domains, but even some of the most digitized sectors in today's global economy, such as finance, could not survive without some very material infrastructures and, often, massive concentrations of buildings. Thus these are *situated* territorial spaces. They are not generic spaces where any location is fine. Further, they are weakly connected to the larger cities within which they exist. Though in a different mode, they are also weakly connected to the non-urban operations of dominant extractive logics (mining, water and land grabs, etc.) that are often the grist for a whole range of financial instruments. Finally, they are connected across regions and even the world, partly through digital capacities and partly through very material instrumentalities. Such instrumentalities range from commodity chains to land grabs for mining and water extraction. All together these operational spaces are foundational elements of the current period, enabling a broad range of processes and conditions.

These operational spaces contribute to the making of geographies that (a) include only parts of national territories and (b) cross multiple interstate borders with great ease – whether through conventional transport or digital flows. The actors involved (people, firms, and networks) navigate this cross-border geography with only minor, if any, obstacles. They do this openly, with large sections of their operational chains functioning within existing law, but also partly beyond – though rarely in direct confrontation with – existing law. Such actors construct novel types of operational spaces for which there might be little law.

These globally recurrent operational spaces can be conceived of as new cross-border geographies of centrality. The outcome is a *de facto* transnational geography that connects strategic spaces across the world even as it constructs its own distinct borderings within countries. These borderings keep what is unwanted out of those strategic spaces. The 'unwanted and/or not needed' can include laws, traditional contractual expectations, large sectors of the economy and the polity,

the political classes of a given country, and much more. The most extreme of these geographies of centrality have hermetic, even if often invisible, borderings. No coyote can take you over those borders. One major such extreme case are the so-called dark pools in finance. These are private financial trading networks owned by some of the major banks in the world; according to the US central bank (the Federal Reserve), they account for a significant proportion of all financial trading. Less extreme are geographies linked to international mining and water extraction that rest on the buying of much land not only by foreign investors, but also by foreign governments, and the making of specific infra- and super-structures. There are other such cross-border geographies that are centred on *illegal* extraction and trading, but I will not focus on these here, since formally recognized illegality introduces a whole series of other issues I address elsewhere (Sassen, 2014, chs 1, 2 and 4; 2013).

These formations tend to unsettle what are often fairly deeply entrenched notions of interstate borders and sovereign national territory. Further, they are quite different from the old European imperial geographies. The old empires wanted it all, and came with larger cultural impositions that went beyond economics – for instance, the ‘mission civilizatrice’ of the French whereby all schools had to teach French, or the British training the colonized subaltern to serve the empire the English way. The new geographies I am focused on have little, if any, of that, which makes them neither better nor worse than the former. They are best seen as largely extractive and infrastructural – they want to have what they need to extract whatever value they are after – mining, timber, land, financial resources, and consumption capacities. And when they are done extracting, they move out. They leave behind not a dying cultural formation, but simply dead land.

Next I analyse two of these geographies of centrality. They are diverse and thereby illuminate somewhat of a spectrum. Elsewhere I have examined more of these, including the making of geographies of powerlessness and geographies of contestation (Sassen, *in press*). The first case concerns specific features of high finance and the second specific cases that bring down the special status of sovereign debtors by using rather simple instruments.

FINANCE: AN ASSEMBLAGE OF CAPABILITIES

The many negotiations between national states and global economic actors that led to our current global financial system have generated a *de facto* normativity.² In my reading, this normative transformation entails a privatizing of capacities for making norms, capacities we have associated with the state in our recent history (Sassen, 2008, ch. 5). This brings with it strengthened possibilities of norm-making in the interests of the few rather than the majority. In itself, this is not new. New is the formalization of these privatized norm-making capacities and the sharper restricting of the beneficiaries. This privatizing also brings with it a weakening and even elimination of public accountability. In practice, this might not appear to be much of a change given multiple corruptions of the political process, but the formalizing of this weakened public accountability is consequential.

This was the setting for the ascendance of the post-1980s global financial system. The global capital market represents a concentration of power capable of systemically (not just through influence) shaping elements of national government economic policy and, by extension, other policies. The powerful have long been able to influence government policy (Arrighi, 1994) but today it is also the operational logic itself of the global financial system that becomes a norm for ‘proper’ economic policy (Sassen, 2008, ch. 5; 2013). These markets can now exercise the accountability functions formally associated with citizenship in liberal democracies: they can vote governments’ economic policies out or in; they can force governments to take certain measures and not others. Given the properties of the systems through which these markets operate – speed, simultaneity, and interconnectivity – the resulting orders of magnitude give them real weight in the economies of countries and their policy-making.

There has long been a market for capital and it has long consisted of multiple, variously specialized, financial markets (Eichengreen, 2010; Helleiner, 1999, 2014). It has also long had global components (Arrighi, 1994; Eichengreen, 2003; UNCTAD, 2015). Indeed, a strong line of interpretation in the literature of the 1990s is that the post-1980s market for capital is nothing new and represents a return to an earlier global era – the turn of the century and, then again, the interwar period (Hirst & Thompson, 1996). However, all of this holds only at a high level of generality. When we factor in the specifics of today's capital market some significant differences with those past phases emerge. I emphasize two major ones here. One concerns today's far higher level of formalization and institutionalization of the global market for capital, partly an outcome of the interaction with national regulatory systems that themselves gradually became far more elaborate over the last hundred years (Sassen, 2001, chs 2, 3, 4; 2014, ch. 3). The second concerns the transformative impact of the new information and communication technologies, particularly computer-based technologies (henceforth referred to as digitization). In combination with the mix of dynamics and policies we usually refer to as globalization they have constituted the capital market as a distinct institutional order, to be differentiated from other major markets and circulation systems such as global trade.

One outcome of these processes is the formation of a strategic cross-border operational field constituted through the partial disembedding of specific state operations from the broader institutional frame of the state; this entailed a shift from national agendas to a series of new global agendas. The transactions are strategic, cut across borders, and entail specific interactions among government agencies and business sectors to address the new conditions produced and required by corporate economic globalization. They do not engage the state as such, as in international treaties or intergovernmental networks. Rather, these transactions consist of the operations and policies of specific *sub*-components of diverse institutional orders. They prominently include the state (for instance, technical regulatory agencies, specialized sections of central banks and ministries of finance, special commissions within the executive branch of government, etc.), supranational systems linked to the economy (IMF and World Trade Organization (WTO)), and private non-state sectors. In this process, these transactions push towards convergence across countries in order to create the requisite conditions for a workable global financial system. This global financial system, in turn, is embedded in a vast array of specific, often highly specialized, bits of state and supranational institutions; it does not only consist of its firms, exchanges, and electronic networks (Sassen, 2008, ch. 5; 2014, ch. 3). It all amounts to a vast cross-border multiplication of operational spaces, each combining only some, albeit very specific, elements of each country.

There are two distinct features about this field of transactions that lead me to posit that we can conceive of it as a disembedded space in the process of becoming structured. The transactions take place in familiar larger and more encompassing settings: 'the' state, 'the' interstate system, and 'the' private sector. However, the practices of the agents involved are *de facto* constructing a distinct assemblage of bits of territory, authority, and rights that recurs across countries and functions as a new type of operational field. In this regard, it is a field that exceeds the formal institutional world of 'the interstate system' and of 'the global economy'. Insofar as interactions between these specific state actors and specific private corporate actors in each country provide substantive public rationales for developing national and international policy, this is an operational field that denationalizes state agendas. That is to say, the rationales for global action of those specific state and corporate actors run through national formal law and policy, but are in fact rationales that denationalize state policy. This can bring with it a proliferation of rules that begin to assemble into partial, specialized systems of law only partly embedded in national systems, if at all. Here we enter a whole new domain of private authorities – fragmented, specialized, and increasingly formalized but not running through national law *per se*.

Two sets of interrelated empirical features of these markets signal the rapid transformation since the mid-1980s.³ One is accelerated growth, partly due to electronic linking of markets – both nationally and globally – and the sharp rise in innovations enabled by both financial economics (mostly algorithmic mathematics) and digitization. The second is the sharp growth of a particular type of financial instrument – the derivative – a growth evident both in the proliferation of different types of derivatives and in its becoming the leading instrument in financial markets (see Sassen, 2014, ch. 3, for a brief description). This diversification and dominance of derivatives has made finance more complex and enabled growth rates that diverge sharply from those of other globalized sectors.

ERODING THE STATUS OF SOVEREIGN DEBT: THE RISE OF VULTURE FUNDS⁴

The 1980s was a period when speculation reigned supreme in many western financial centres, most especially Wall Street. The term ‘junk bonds’ of the 1980s was used by established Wall Street firms to describe instruments that had not been subjected to a credit rating at a time when only a limited number of firms had such ratings. The current use of ‘vulture funds’ emerges in that period to describe funds specializing in buying heavily discounted sovereign debt in order to sue those governments, often many years later, for full payment plus interest and fees. Such newcomers to the old-style banking world introduced what were seen at the time as dubious practices, distasteful to established firms.

This was also the period when vast numbers of sovereign governments were at risk of default – over 50 governments from the 1970s to the 1990s. There was, then, the potential for severe international instability. The international ‘community’ responded to this sovereign debt crisis by adding flexibility in order to help sovereigns pay their debt.⁵ This community included the IMF, the Club of Paris, other such institutions, and several key governments.⁶ They developed diverse arrangements and options, including the so-called Brady Bond mechanism, all geared to preventing sovereign defaults.⁷ By 1996 the IMF and World Bank had recognized that 46 governments would not be able to pay their debt under current conditions, and instituted the HIPC (Highly Indebted Poor Countries) programme.⁸ The programme amounted to a massive discount of these governments’ debt, but the debt holders were persuaded that accepting the discounted value was a reasonable option as the big international banks had their own reasons for wanting international stability.

The vulture funds evidently saw it as a ‘business opportunity’ in view of the growing numbers of sovereign debtors going into default.⁹ Key was also the fact that it amounted to a vast supply of heavily discounted debt. In the 1990s, these funds enter the picture as aggressive litigators launching lawsuits that were, we might say, not meant to happen given the international system’s efforts to protect sovereign debtors. As already mentioned, in their current incarnation, these funds specialize in buying distressed sovereign debt held by major banks, at heavily discounted prices *in order* to sue for the full value of the debt plus interests and fees. And sue they have, with major success. They engaged sovereign debtors in ways that bypassed established mechanisms such as the Brady Bonds and the prescriptions of the international institutions handling sovereign debt. Importantly, their key battleground is local courts. In so doing, they bypass long-established formats, including customary law, for how to handle sovereign debt.

One clear outcome of these past four decades is that sovereign debt has lost some of the key protections that marked this type of debt as different from business debt. The core notion is that sovereign debt is a people’s, a nation’s, debt. Over the last 20 years, a few of the most powerful of these vulture funds succeeded in having judges reduce the standing of sovereign debtors to that of a mere commercial entity that owed them money. What stands out, besides the aggressive suing, is the fact that judges mostly did not make room for the traditional defence of a sovereign debtor in

such cases: champerty, an old English law that forbids the purchase of debt with the intent, and for the purpose, of bringing a lawsuit.¹⁰ This was a break with international custom.

Whether discounting sovereign debt is right or not, it is clear that much effort was and continues to be put by the international system into preventing sovereign defaults. This was well illustrated by the 2001 Argentina default, when the IMF begged for Argentina to accept an IMF loan in order to keep it from defaulting on its debt. Argentina refused and went into what became the largest sovereign default since the Second World War.¹¹

Vulture funds bring sovereigns to their knees

The most innovative of these funds has been Elliott Associates L.P. This is an umbrella company for several different units involved in these lawsuits, including NML in the current Argentina case. For simplicity's sake, I will use 'Elliott'. It has won 11 court cases in New York against foreign sovereign debtors. There were other legal victories in foreign countries, including the United Kingdom and Belgium.¹² In 1996, Elliott launched its first in a series of lawsuits, starting with Panama.¹³ Elliott bought \$28.7 million of Panamanian sovereign debt in 1995 for the discounted price of \$17.5 million and in 1996 sued that government in a New York court for full payment of the original debt plus interests and fees. Elliott won the case and Panama's government had to pay \$57 million.

The 2012 New York court decision on Argentina further reduced the standing of sovereign debtors through its extreme version of *pari passu*, whereby all creditors are to be treated equally.¹⁴ It meant that Argentina could not pay 93% of its creditors (who had accepted the discounted debt arrangement, as is customary) until Elliott and its co-claimants received their payment (for the full original debt plus interest and fees). A number of other lawsuits followed (see a few examples below). The gains made by Elliott are, even by investment standards, extremely high (see Figure 1). In many ways the Panama victory opened the door for other funds. Among them were Dart Container Corp. and EM Ltd., both linked to Kenneth

	Purchase Amount	Awarded Amount/ Private Settlement
Panama	\$17.5 m ¹	\$57 m ²
Peru	\$11.4 m ³	\$58 m ⁴
D.R. Congo	\$30 m ⁵	approx. \$100 m ⁶
PENDING		
Argentina	approx. \$48 m ⁷	(\$2.3 b) ⁸

Figure 1. Elliot et al.'s sovereign debt purchases.

Notes: ¹<http://openjurist.org/194/f3d/363/elliott-associates-lp-v-banco-de-la-nacion-the-republic-of-peru/>; ²<http://openjurist.org/194/f3d/363/elliott-associates-lp-v-banco-de-la-nacion-the-republic-of-peru/>; ³<http://nypost.com/2014/07/04/hedgie-paul-singers-vulture-investing-paid-off-royally/>; ⁴<http://nypost.com/2014/07/04/hedgie-paul-singers-vulture-investing-paid-off-royally/>; ⁵<http://www.theguardian.com/global-development/2011/nov/15/vulture-funds-key-players?intcmp=122>; ⁶<http://www.theguardian.com/global-development/2011/nov/15/vulture-funds-key-players?intcmp=122>; ⁷<http://nypost.com/2014/07/04/hedgie-paul-singers-vulture-investing-paid-off-royally/>; ⁸<http://fortune.com/2012/03/26/mitt-romneys-hedge-fund-kingmaker/>; see also, <http://nypost.com/2014/07/04/hedgie-paul-singers-vulture-investing-paid-off-royally/> (also reported as a lesser amount – \$832 million by some accounts).

Dart, one of the most famous names in the world of vulture funds; MNL Ltd., a Cayman Islands-based fund associated with Elliott; Gramercy Advisors, a Greenwich, Connecticut-based firm, focused on Ecuadorian and Russian debt; Aurelius, also a major actor in the Argentina lawsuit; and FG Hemisphere.

International legal avenues for sovereign default

Sovereign debt is not ordinary debt – it is a people’s debt. Sovereign default can bring down a national economy, which can generate serious international economic repercussions.¹⁵ Some of these early victories in the courts became a kind of precedent in that they succeeded in basically eliminating the traditional defences of sovereign debtors in court cases.

Many defaulting countries must undergo the restructuring process more than once to address some further unforeseen or unaddressed factors (IMF, 2013, p. 24; IMF, 2015). Argentina, Belize, Greece, Grenada, and Jamaica all experienced two or more restructurings of their debt due to the unsustainability of previous restructurings (IMF, 2013, p. 24). Given the messiness and expense, these subsequent restructurings are particularly disruptive to developing economies. What is more, this fragile ad hoc system falls apart when holdout creditors, which domestic courts like those in the United States have supported through various judicial decisions, exploit its weaknesses. When vulture funds refuse to submit to any meaningful negotiations with sovereign debtors, they undermine the debtor’s efforts to restructure the debt.

There are few international or multilateral legal avenues for sovereign bankruptcy. Further, new ‘international’ initiatives often are attempts that simply build upon the existing system.¹⁶ The IMF’s 2001 comprehensive Sovereign Debt Restructuring Mechanism failed to gain enough support from IMF members. The United States led the effort (see Wigglesworth, 2014) against this IMF initiative, reluctant to surrender enough of its sovereignty for the plan to work (IMF, 2013, p. 13). The IMF then opted for Collective Action Clauses (CACs), contractual provisions intended to induce creditors to submit to majority rule in the case of default. Sovereign debt contracts are now being written to anticipate holdout creditors (‘vulture funds’) by including CACs and other provisions. This does nothing to help those countries currently undergoing proceedings, nor does it do much to legitimate the ad hoc system as it is. The result is a weakening of the position of sovereign debtors and a strengthening of holdout creditors. It is, then, unlikely that this type of safeguard (CACs) alone will provide the kind of stability in sovereign debt that is needed. Holdout creditors can keep on blocking a sovereign debtor who is ready to pay creditors a discounted debt (IMF, 2013, p. 31). The same 2013 IMF report claims that this piecemeal plan is ‘too little, too late’, and that the problems fundamental to collective action are too large to overcome without a comprehensive framework.¹⁷

Among the newer developments in international response to sovereign debt, the IMF developed the Sovereign Debt Adjustment Facility (SDAF), a so-called comprehensive framework designed to stand alongside CACs, and supposed to both prevent the fund from entering into countries where debt is indeed unsustainable and to protect countries undergoing restructurings from holdout creditors.

In short, these new types of financial actors have constructed an operational space that is all their own. It is a space that can enter foreign countries with great ease and then sue their governments in a regular US court. This is an astounding downgrading of the status of the sovereign debtor (for good or bad) and a refusal to accept older traditions that recognized the special status of a government’s debt because it is a people’s debt.

CONCLUSION

The space of traditional governance is shrinking, even though it remains the most strategically important and powerful. What is expanding is a vast new zone of ambiguous rules and ‘ruling

orders'. The rules range widely – from private formal arrangements, such as international commercial arbitration which bypasses national courts, to the agreements among a growing number of international criminal syndicates. The 'ruling orders' also range widely, from terrorist organizations to large global firms with the power to shape much of the global economy.

The overall outcome is a multiplication of systemic edges that encompass operational spaces *inside* national sovereign territories yet connecting across multiple such territories. Neither those enclosed operational spaces nor the geographies that connect them across the world are part of traditional national borders or the formal interstate system. They can benefit from the deregulations and privatizations that underlie the global system, but they are not necessarily marked or made visible by these familiar innovations of the global system. They operate through other channels and construct their own geographies.

The two cases examined in detail here capture this type of formation: partial, not all encompassing of a country, but shaping a multi-sited connected geography. The case of holdout creditors ('vulture funds') makes this highly visible. They buy a sovereign's debt in country *a*, launch a lawsuit against that sovereign in country *b*, and chose to do so in a regular court – not the norm in dealing with a sovereign. In constructing such a process, they bring in play, and help strengthen, three operational spaces that in the past never connected this way. The case of dark pools in high finance makes visible a vast global network of private electronic domains marked by the tightest of borders yet dependent on localized capital and investments in country after country. These two instances are quite extreme in their use of specific national facilities and their capacity to construct cross-border spaces that meet their specific needs. I conceive of these as extractive economies. As I indicated in the introduction, my larger project also includes types of formations that enable weak actors to make claims, focusing especially on human rights and environmental activist networks.

DISCLOSURE STATEMENT

No potential conflict of interest was reported by the authors.

NOTES

1. This text is part of a book manuscript (*Ungoverned territories?* in press with Harvard University Press) based on the Storrs Lectures in Philosophy and Jurisprudence delivered by the author at the Yale University Law School. The full elaboration of some of the issues raised can be found in Sassen (2008, chs 5 and 6; 2012; 2014).
2. Among familiar components are privileging low inflation over employment growth, exchange rate parity, and the variety of items found in International Monetary Fund (IMF) conditionality and Basel rules. There are specificities for diverse periods. Thus, after the Southeast Asian financial crisis, we saw revisions of some of the specifics of these standards: for example, exchange rate parity was to be evaluated in less strict terms. Whom these changes benefit has not changed much. I develop this at length in Sassen (2008, ch. 4; 2013; 2014, ch. 1).
3. There are other factors that are significant, particularly institutional changes, such as the bundle of policies usually grouped under the term deregulation and, on a more theoretical level, the changing scales for capital accumulation. For a full analysis of these issues, see Knorr-Cetina and Preda (2014), Eichengreen (2010), Eichengreen and Fishlow (1998), and Krippner (2011) on deregulation and re-regulation in the financial markets today; on new scales for capital accumulation, see the special issue of *Globalizations* on 'Globalization and Crisis', especially Gills (2010); and for a state of the art examination of how the making of specialized corporate services for global firms started three decades ago, see Bryson and Daniels (2009).
4. The term 'vulture' is not new to the world of finance. It was used in the US at least as early as the mid-1800s to describe financial firms that specialized in buying devalued assets with the aim of making a profit. It emerges again as a descriptive term used by popular news sources in the early 1900s.

5. The US and the UK, the countries with the two major financial centres at the time, passed, respectively, the US Foreign Sovereign Immunities Act (FSIA) of 1976 and the UK State Immunities Act of 1978. Both reduced the scope of sovereign immunity.
6. Let me clarify that I have written an extensive critical analysis about these initiatives and the embedded understanding of what it meant to rescue a sovereign debtor (see Sassen, 2001, 2008).
7. It should be noted that the large international banks that accepted the discounted debt were not completely innocent in the making of this potentially catastrophic debt scenario. There was a massive push to sell loans in the 1970s and early 1980s stemming from the abundance of so-called petro-dollars of the 1973 the Organization of Petroleum Exporting Countries (OPEC) windfall and their decision to put this money into the hands of large international banks. Thus these banks had to find takers for their loans, as this was not yet the highly financialized system that it is today (see Sassen, 2010; 2014, chs 2 and 3).
8. It is important to note that the debt of these countries was partly the outcome of common practices of Global North actors – both particular governments and what were then called ‘transnational’ banks (see Sassen, 2014, ch. 1; 2016).
9. For a detailed account of the rise of vulture funds in the 1980s and a range of specific cases across the world, see Sassen (2008, ch. 5 and its appendix).
10. For a discussion involving champerty as it relates to vulture fund litigation, see Wheeler and Attarand (2003). See also Anon (1897).
11. The Argentine default was US\$98 billion. The 1998 Russian default was US\$72 billion (Takushi, 2013), though some estimate it was closer to US\$100 billion.
12. See, for example, the UK court victory (Croft, 2011) and the Belgium *pari passu* victory (Zamour, 2013, p. 61). There was also a victory in Ghana, but this ruling was overturned by the UN Tribunal on the Laws of the Sea.
13. This was the first case of its kind for Elliot – the debt was purchased in 1995 and the suit was brought in 1996 (Elliott Associates v. Banco de la Nacion and the Republic of Peru, 194 F.3d 363, 2d Cir. 1999).
14. For a discussion of *pari passu*, see Zamour (2013).
15. In the case of sovereign contracts, the creditor ‘knew or should have known’ about the special considerations inherent in lending to sovereigns (using the reasoning of the Tinoco arbitration between GB and Costa Rica) – see Lienau (2013, p. 134).
16. For a critique of the legal and political worldview that tends to sacralize versions of our institutions that ceased to be workable or desirable (such as a conception of sovereignty that fails to account for the many ways it must adapt to accommodate new forms of human social, political, cultural, and economic connection) see Barrozo (2015).
17. See Waibel (2007) for an examination of how the interest of the diverse parties to a sovereign debt settlement can diverge.

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