

Book Review: Territory, Authority, Rights: From Medieval to Global Assemblages by Saskia Sassen

Florian F. Hoffmann

Peer Zumbansen

Osgoode Hall Law School of York University, pzumbansen@osgoode.yorku.ca

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/ohlj>

Book Review

Citation Information

Hoffmann, Florian F. and Zumbansen, Peer. "Book Review: Territory, Authority, Rights: From Medieval to Global Assemblages by Saskia Sassen." *Osgoode Hall Law Journal* 46.3 (2008) : 665-673.

<http://digitalcommons.osgoode.yorku.ca/ohlj/vol46/iss3/8>

This Book Review is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

Book Review

TERRITORY, AUTHORITY, RIGHTS: FROM MEDIEVAL TO GLOBAL ASSEMBLAGES by Saskia Sassen¹FLORIAN F. HOFFMANN² & PEER ZUMBANSEN³

This book ventures, for the first time, to predict history in the making. It represents the attempt to trace a culture, notably the only culture that, today, is in the process of perfection on this planet, that is, the West European-American culture, in relation to the stages of development it is yet to experience. Is there a logic of history? Is there, beyond accidental and incalculable singular occurrences, a, so to speak, metaphysical structure of historical humanity?⁴

THIS INTRODUCTORY QUOTATION, pointing to a large project and a far-reaching set of questions, would have been well suited to introduce Saskia Sassen's seminal attempt to grasp the deep structure of contemporary world society in *Territory, Authority, Rights: From Medieval to Global Assemblages*. However, it was not Sassen but Oswald Spengler who notoriously placed these words in the very beginning of his *Decline of the West*, written at the close of the First World War.⁵ It is, of course, quite unfair to compare, or even analogize, these two scholars. In *Territory, Authority, Rights*, Sassen, a world-renowned sociologist and a self-described liberal cosmopolitan, seeks to understand rather than to judge, whereas Spengler's *Decline of the West* is the polemically charged work of a conservative cultural pessimist.

What connects both *oeuvres*, not rhetorically but analytically, is the great bird's eye view these authors take of world societies across space and time. Each

-
1. (Princeton: Princeton University Press, 2006) 493 pages [Sassen, *Territory, Authority, Rights*].
 2. Lecturer, Department of Law, London School of Economics and Political Science.
 3. Associate Dean (Research) and Canada Research Chair in Comparative and Transnational Governance, Osgoode Hall Law School.
 4. Oswald Spengler, *Der Untergang des Abendlandes* (Vienna: Wilhelm Braumüller, 1918) at 1 [translated by authors]. For a published English translation, see Oswald Spengler, *Decline of the West*, trans. by Charles Francis Atkinson (New York: Knopf, 1945).
 5. *Ibid.*

author intends to widen the reader's perspective and enable us to discern hidden patterns, bringing to light something other than arbitrary spatiality or accidental historical progression. What these authors show us, in their different ways, are the constitutive elements, structures, and logics that philosophers of history have referred to as "making history." It is suggested that embedded in this writing of history is the potential to influence and shape the course of history. As such, both Sassen's *Territory, Authority, Rights* and Spengler's *Decline of the West* are rooted in the "philosophy of history" (*Geschichtsphilosophie*) tradition that has unfolded since Hegel and Marx, and has recently gained renewed currency through Michael Hardt and Antonio Negri's *Empire*.⁶

Grand theorizing is characteristic of periods of paradigmatic change, such as the shift from the old (European) world to the new (American) world that inspired Spengler, or the shift from the (inter)national paradigm to the global one with which Sassen is concerned. She begins her book with the affirmation that we are living through an "epochal transformation."⁷ From the very start, Sassen makes a convincing claim that it is the overburdening of the concepts and explanatory models of the old paradigm by those of the new one—and the resulting sense of complexity, contingency, and uncertainty—that incite the social scientist to seek orientation in the greater heights of abstraction, away from the seeming arbitrariness, if not pointlessness, of real space-time. Even more poignant is the first, and perhaps the central, protagonist of her story: the state.

At first glance, the state seems like a surprising object for one of the leading theorists of globalization, a transformation so often associated, if not synonymized, with a withering away of the state. Sassen's story, however, is anything but the usual narrative about the demise of the nation-state and the rise of some vaguely defined global socio-political space held together by that most ephemeral of concepts: global governance. Instead, she subjects the state to a thorough x-ray procedure in search of the basic building blocks and the driving forces that have moved it through time and space. Once identified and laid out, she reckons, these elements should be able to provide the analytical toolkit for a more adequate understanding of the globalizing world. She sees this world not as the result of a simple shift from the national to the global, but as a rearrangement of the basic elements through which (human) territory is

6. Michael Hardt & Antonio Negri, *Empire* (Cambridge: Harvard University Press, 2001).

7. Sassen, *Territory, Authority, Rights*, *supra* note 1 at 1.

organized in time. The centrepiece of her argument is that the state is not the victim of external globalizing forces.

This runs counter to the dominant globalization narratives which portray the state as prey to the insatiable appetite of developments occurring on or outside its borders, not within it. For years, Sassen has been arguing for a reversal of this dominant globalization perspective. Instead of merely bringing the state back in, she has been engaging in an analysis that traces the unfolding of globalizing processes within the machinery that constitutes the nation state.⁸ This strategy is meant to avoid what she calls the “endogeneity trap”—the common mistake of conceiving of the global as a *sui generis* configuration that serves as one leg of a rigid dichotomy between the state and the global. To avoid this trap, she starts with these basic elements in order to trace and to observe how they have been worked and re-worked in, and through—rather than against—the state. These elements are set out early on in *Territory, Authority, Rights* and provide the framework for a three-dimensional matrix. One dimension comprises what she defines as the basic building blocks of the state and, consequently, of globalization: territory, authority, and rights. For Sassen, these are “trahistorical components present in almost all societies.”⁹ But this convenient trinity is non-exhaustive, thus reinforcing the work-in-progress character of her analytical approach emphasized throughout the book.

The second leg of the split between the state and the global is again made up of three analytical categories through which systemic transformation can be understood: namely capabilities, tipping points, and organizing logics. With the first, Sassen taps into an ever more widely accepted conceptual niche powerfully cultivated by Amartya Sen and Martha Nussbaum.¹⁰ For Sassen, “capabilities are collective productions whose development entails time, making, competition, and conflicts, and whose utilities are, in principle, multivalent because they are conditioned on the character of the relational systems within which they function.”¹¹

8. See Saskia Sassen, *Globalization and Its Discontents* (New York: The New Press, 1998); Saskia Sassen, “Globalization or denationalization?” (2003) 10 *Rev. Int’l Pol. Econ.* 1.

9. Sassen, *Territory, Authority, Rights*, *supra* note 1 at 4.

10. See Amartya Sen, *Development as Freedom* (New York: Knopf, 1999); Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000).

11. Sassen, *Territory, Authority, Rights*, *supra* note 1 at 8.

Yet, as she later makes clear, capabilities are able to operationalize specific interests context-independently.

Sassen describes the second component of her three-element configuration, tipping points, as the space-time moments at which relational systems are transformed. The concept of tipping points serves as a heuristic tool for Sassen to re-focus analytical attention away from the outcome of such shifts—that is, away from the new relational system—and towards the moment of change itself. She argues that this moment of change reveals much more about the reasons for transformation occurring than the commonplace focus on the outcome of the shifts exposes. The third component consists of organizing logics, which are the prevailing organizational formations in which capabilities are played out and which initiate particular tipping points.

Lacking from this scheme is the temporal dimension, which is certainly crucial to Sassen's theoretical design, wherein history matters. Sassen seems convinced that it is only through the historization of these configurations that the deep structure of contemporary developments can be grasped. At the center of this approach—which provides such a prominent place for historical analysis—is the inquiry as to how the same basic building blocks, namely territory, authority, and rights, have been assembled into different formations across time. It is thus history that sets out a “far more powerful analytic terrain than any model when we are confronting complex reconfigurations such as those we see today.”¹²

Yet, Sassen's purpose is not and could not be historiographical. Such an approach would exhaust itself in the painstaking hermeneutic reconstruction of moments of the past. Rather, she must use history heuristically, by selecting specific points in space and time that can be considered typical of a particular formation. Once identified, these points can be studied with regard to their transformation, which would entail recognition of the capabilities that have constituted particular organizing logics from within the elements of territory, authority, and rights. The question that follows is how these elements have been re-assembled through particular tipping points.

Applying this ambitious methodology to her subject, Sassen focuses on feudalism in late medieval France, imperialist capitalism in nineteenth-century Britain, and executive-oriented statism in the mid-twentieth century United

12. *Ibid.* at 14.

States. These historical periods and particular spaces boost Sassen's illustration of the forces at work in her master narrative.¹³ That narrative unfolds, like the book itself, in three parts: one in which the national is assembled; a second in which it is disassembled; and a third which sees the rise of global (digital) assemblages. Crucially, however, her point is not that the three historical occurrences coincided with these three parts, but that the national and the global are deeply entangled with one another.

Sassen aims at no less than dissolving the often assumed dichotomy between the national and the global by showing how both are instantiations of the same assemblages of territory, authority, and rights. In the course of this exercise she mobilizes an impressive amount of historical evidence from which she extracts a number of compelling observations that include the importance of cities as assembly points through the decisive role of expert "epistemic" communities, the growth of executive power, the changing conception of risk management, and the highly charged role of religious faith.

Drawing on these individual yet connected accounts, Sassen seeks to identify several master discourses that have emerged out of the historical assemblages, such as borders and bordering, state secrecy, privatization, deterritorialization, and law (indeed, law matters too). Sassen, unlike many other globalization theorists who see law as merely an epiphenomenon of broader social and economic processes,¹⁴ attributes a crucial role to law, seeing it as an interest-structuring capability that carries on across time and space. For instance, the rise of secular authority exercising dominion over territory in the late medieval period is, according to her, intimately linked to the development of municipal (secular) law.¹⁵ Law is the core capability that is part of the historical assembly line on which the national has been configured and re-configured, rather than the other way around.

-
13. For a comprehensive unfolding of the tension between spaces and places, see Sassen, *Globalization and Its Discontents*, *supra* note 8. For applications of this approach, see Alfred C. Aman, Jr., "The Limits of Globalization and the Future of Administrative Law: From Government to Governance" (2001) 8 *Ind. J. Global Legal Stud.* 379; Peer Zumbansen, "'New Governance' in European Corporate Governance Regulation as Transnational Legal Pluralism" 14 *Eur. L.J.* [forthcoming in 2008], online: <<http://ssrn.com/abstract=1128145>>.
14. For an excellent overview of contemporary globalization discourses in law, see Robert Howse, "The End of the Globalization Debate: A Review Essay" (2008) 121 *Harv. L. Rev.* 1528 at 1529.
15. Sassen, *Territory, Authority, Rights*, *supra* note 1 at 25-132.

Saskia Sassen's *Territory, Authority, Rights* is seminal in its attempt to cut through the Gordian knot of rigid state/global dichotomies—the purpose of which has too often been the juxtaposition of the good and the bad, the pro and contra, of world history—and its embedded projects in law, democracy, or religion.¹⁶ Naturally, Sassen's ambitious attempt at redrawing the terms of this debate by climbing up onto the lofty heights of historical omni-vision is a *tour de force*. What effect does this have on the sociological inquiry with which the project started? And, we might add, how might this be perceived adequately from a legal scholar's perspective? We are certainly reminded of the late Reinhart Koselleck's breathtaking socio-historical reflections on the space-time correlation¹⁷ that have in such fruitful ways enriched discourses in legal history and legal theory.¹⁸

Furthermore, Sassen's approach shows strong affinities to what Richard Rorty, in an early reflection on historiography,¹⁹ called "rational reconstruction." By this he referred to the stylization of historical fact into super-historical forms associated with the interpreter's, rather than the historical agent's, particular worldview. Rorty went on to contrast this form of reconstruction with another one, which he called "historical reconstruction." The latter seeks to construct a hermeneutical approach towards the meaning of a particular period *in its own terms*.

This idea is of particular interest in reflecting upon *Territory, Authority, Rights*. Crucially, Rorty considers both historiographical modes to be equivalent. Neither can claim any greater objectivity than the other and as long as their contingency is openly acknowledged, both are equally legitimate. In the case of *Territory, Authority, Rights*, rational reconstruction is, in fact, employed not so much to support a particular stance within the existing globalization debate, but to move beyond it. For it is, arguably, by uncovering these historically continuous ideal-typical formations that Sassen prepares the ground for a new and potentially more substantive reflection of what is happening in the world today.

16. Howse, *supra* note 14 at 1531-35.

17. See Reinhart Koselleck, *Futures Past: On the Semantics of Historical Time*, trans. by Keith Tribe (New York: Columbia University Press, 2004) at 255-75 (c.14: "'Space Exploration' and 'Horizon of Expectation': Two Historical Categories").

18. Reinhart Koselleck, "Begriffsgeschichte and social history" (1982) 11 *Econ. & Soc'y* 409.

19. Richard Rorty, "The Historiography of Philosophy: Four Genres" in Richard Rorty, Jerome B. Schneewind & Quentin Skinner, eds., *Philosophy in History* (Cambridge: Cambridge University Press, 1984) 49.

In light of the boldness with which Sassen builds on and moves beyond her prior work, some of the choices in the book will surprise the reader. For example, it is not quite clear why Sassen only chooses for her illustrative histories well-studied periods and places in the West—*i.e.* the global North—instead of including at least some historical experiences from the multifaceted global South. The point here is not to accuse her of Eurocentric or Orientalist bias, a charge already proven inapplicable in her earlier work on global cities.²⁰ Rather, the critique is that she leaves aside historical formations in which the national has been assembled, disassembled, and re-assembled in ways that would provide a powerful illustration of her argument, while being very different from the Euro-American historical trajectory she chooses as a backdrop for her theoretical framework. This omission is regrettable precisely because it is in the global South that many of the global assemblages Sassen is interested in can be observed to unfold along shorter time scales and at greater intensity than in a partially atrophying global North. Then again, this may just be the next step of Sassen's colossal research agenda that far transcends the limits of *Territory, Authority, Rights*.

An ironic feature of *Territory, Authority, Rights*—perhaps of philosophy of history as a whole—is that historical data are sought to confirm “truths supposed to be *above* the flux of history—something more fixed and universal, permanent, and reliable as a guide to action than the particularities of history can of themselves disclose.”²¹ It is ironic that Sassen is strongly interested in such guidance from history. Such normative underpinnings of historical projects as conceptualized and executed in her book lead the researcher to speculate about the ways in which the study of history can bear emancipatory potential, “empower us,” make us understand as global citizens, consumers, and policy-makers, help us to better grasp the complexity of the world out there, and, eventually, optimize our capacity to proactively engage with these processes. All that, without “a little irony?”²² Sassen, of course, knows better. Yet she appears to oscillate between a systemic

20. See *e.g.* Saskia Sassen, ed., *Global Networks, Linked Cities* (London: Routledge, 2002).

21. Michael J. Lacey & Knud Haakonssen, eds., *A Culture of Rights: The Bill of Rights in Philosophy, Politics, and Law, 1791-1991* (Cambridge: Cambridge University Press, 1991) at 7-8 [emphasis in original].

22. See Kerry Rittich, “Functionalism and Formalism: Their Latest Incarnations in Contemporary Development and Governance Debates” (2005) 55 U.T.L.J. 853 at 868; Peer Zumbansen, “Law after the Welfare State: Formalism, Functionalism, and the Ironic Turn of Reflexive Law” (2008) 56 Am. J. Comp. L. 769 at 774.

perspective, for which she acknowledges an analytic debt to neo-Marxist structuralism, on the one hand and a methodological individualism, which almost points her towards a neo-contractualist vision of citizenship, on the other.

In the end, Sassen neither embraces nor propagates this re-emerging individualist triumphalism. In view of the longstanding objects of her studies, namely collective formations such as transnational corporations or cities, her treatment of individual agency becomes merely a nod of acknowledgement towards a wide range of authors currently being carried away by rational choice utopias of a supposedly brighter and freer future. Just think of the discursive universe in which a book such as *Territory, Authority, Rights* is written and to which it is eventually exposed; think of work by scholars such as Thomas Franck who celebrate a liberal utopia, and realize that Sassen seems to suggest: "You're next!"²³

What, then, can be taken to be the overall conclusion of *Territory, Authority, Rights*? After all, Sassen's project is extremely ambitious, involving a rethinking, and ultimately a deconstruction, of the correlation between the national and the global, in order to fold both spheres into one. It is, perhaps, not surprising that in the end, she returns to her starting point: the state. As she points out in her very last statement, the state as "a major form will [not] disappear, but rather, ... in addition to being the site for key transformations, it will itself be a profoundly changed entity."²⁴

This final word can be seen to encapsulate profound irony. It is ironic that Sassen so powerfully takes apart all those constitutive elements of the state that rational choice theorists proclaim whilst reasserting the sovereignty of the state.²⁵ Sassen holds out the term "state"—which we still have not learned to replace with an alternative (market, world society, cosmopolis, cyberspace)—not to deny its very "contestedness"²⁶ as both concept and term.

23. Thomas M. Franck, *The Empowered Self: Law and Society in the Age of Individualism* (Oxford: Oxford University Press, 1999).

24. Sassen, *Territory, Authority, Rights*, *supra* note 1 at 423.

25. See e.g. Jack L. Goldsmith & Eric A. Posner, *The Limits of International Law* (New York: Oxford University Press, 2005). For an insightful discussion see the following book reviews: Oona A. Hathaway & Ariel N. Lavinbuk, "Rationalism and Revisionism in International Law" (2006) 119 Harv. L. Rev. 1404; Paul Schiff Berman, "Beyond the Limits of the International Law" (2006) 84 Tex. L. Rev. 1265.

26. Christine Swanton, "On the 'Essential Contestedness' of Political Concepts" (1985) 95 Ethics 811.

Instead, she lets the dubious notion of the state dangle before our eyes so that we look beneath the covers of the nation state, beneath the umbrella allegedly cast over it by the forces of globalization and international interdependency, and beneath how such litanies of “losing control” may progress.²⁷ For Sassen, the term “state” cannot be more than a mere reminder of a no longer convincing, but still needed, starting point for a reflection on exclusion/inclusion and inside/outside relations. By combining irony with analytical caution, Sassen prudently avoids the trap that most philosophies of history fall into, including Spengler’s, namely of being proven wrong by history itself. As it stands, *Territory, Authority, Rights* ends up cautiously espousing the global cosmopolitan subjectivity that is, factually, emerging not beyond the national but within it and through a transformed version of it. That is at once an interesting and hopeful message.

27. For a powerful critique, see Saskia Sassen, *Losing Control?: Sovereignty in an Age of Globalization* (New York: Columbia University Press, 1996).

