

GLOBALIZATION AND ITS DISCONTENTS

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The Global City

The Mobility of Labor and Capital

Losing Control

S A S K I A S A S S E N

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AND ITS
DISCONTENTS

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28 For instance, the Universal Declaration was cited in seventy-six federal cases from 1948 through 1994; over ninety percent of those cases took place since 1980 and of those, forty-nine percent involved immigration issues, and up to fifty-four percent if we add refugees (Jacobson, 1996: 97). Jacobson also found that the term "human rights" was referred to in nineteen federal cases before the twentieth century, 34 cases from 1900 to 1944, 191 from 1945 to 1969, 803 cases in the 1970s, over 2,000 in the 1980s, and an estimated 4,000 cases through the 1990s.

29 There is a whole debate about the notion of citizenship and what it means in the current context (see Soysal 1994; Baubock 1994, Sassen 1996, chap. 2). One trend in this debate is a return to notions of cities and citizenship, particularly in so-called global cities, which are partly denationalized territories and have high concentrations of non-nationals from many different parts of the world (e.g., Holston 1996; Knox and Taylor 1995; *Social Justice* 1995). The ascendance of human rights codes strengthens these tendencies to move away from nationality and national territory as absolute categories.

Immigration has traditionally aroused strong passions in the United States. Although Americans like to profess pride in their history as "a nation of immigrants," each group of arrivals, once established, has fought to keep newcomers out. Over the past two centuries, each new wave of immigrants has encountered strenuous opposition from earlier arrivals, who have insisted that the country was already filled to capacity. (The single exception to this was the South's eagerness to import ever more slaves.) Similar efforts to shut out newcomers persist today. But those who would close the door to immigration are mistaken on two counts: not only do they underestimate the country's capacity to absorb more people, but they also fail to appreciate the political and economic forces that give rise to immigration in the first place.

U.S. policy makers and the public alike believe the causes of immigration are self-evident: people who migrate to the United States are driven to do so by poverty, economic stagnation, and overpopulation in their home countries. Because immigration is thought to result from unfavorable socioeconomic conditions in other countries, it is assumed to be unrelated to U.S. economic needs or broader international economic conditions. In this context, the decision becomes a humanitarian matter; we admit immigrants by choice and out of generosity, not because we have any economic motive or political responsibility to do so. An effective immigration policy, by this reasoning, is one that selectively admits immigrants for such purposes as family reunification and refugee resettlement, while perhaps seeking to de-

ter migration by promoting direct foreign investment, foreign aid, and democracy in the migrant-sending countries.

Although there are nuances of position, liberals and conservatives alike accept the prevailing wisdom on the causes of immigration and the best ways to regulate it. The only disagreement, in fact, is over how strictly we should limit immigration. Conservatives generally maintain that if immigration is not severely restricted, we will soon be overrun by impoverished masses from the Third World, although the demand for cheap agricultural labor at times tempers this position. Liberals tend to be more charitable, arguing that the United States, as the richest country in the world, can afford to be generous in offering a haven to the poor and oppressed. Advocates of a less restrictive policy also note the positive effects of immigration, such as the growth of cultural diversity and a renewed spirit of entrepreneurship.

Not surprisingly, U.S. immigration laws have reflected the dominant assumptions about the proper objectives of immigration policy. The last two major immigration reforms, passed in 1965 and 1986, have sought to control immigration through measures aimed at regulating who may enter legally and preventing illegal immigrants from crossing our borders. At the same time, the U.S. government has attempted to promote economic growth in the migrant-sending countries by encouraging direct foreign investment and export-oriented international development assistance, in the belief that raising economic opportunities in the developing world will deter emigration. Yet U.S. policies, no matter how carefully devised, have consistently failed to limit or regulate immigration in the intended way.

The 1965 amendment to the Immigration and Naturalization Act was meant to open up the United States to more immigration, but to do so in a way that would allow the government to control entries and reduce illegal immigration. It sought to eliminate the bias against non-Europeans that was built into earlier immigration law and to regulate the influx of immigrants by setting up a series of preference categories within a rather elaborate system of general quotas.² Under this system, preference was given to immediate relatives of U.S. citizens and, to a lesser extent, to immigrants possessing skills in short supply in the United States, such as nurses and nannies.

The 1965 law brought about major changes in immigration patterns, but not necessarily the intended ones. The emphasis on family reunification should have ensured that the bulk of new immigrants

would come from countries that had already sent large numbers of immigrants to the United States—that is, primarily from Europe. But the dramatic rise in immigration after 1965 was primarily the result of an entirely new wave of migration from the Caribbean Basin and South and Southeast Asia. The failure of U.S. policy was particularly evident in the rapid rise in the number of undocumented immigrants entering the country. Not only did the level of Mexican undocumented immigration increase sharply, but a whole series of new undocumented flows were initiated, mostly from the same countries that provided the new legal immigration.

The outcry over rising illegal immigration led to a series of congressional proposals that culminated in the 1986 Immigration Reform and Control Act. This law was intended to rationalize immigration policy and, in particular, to address the problem of illegal immigration. It features a limited regularization program that enables undocumented aliens to legalize their status if they can prove continuous residence in the United States since before January 1, 1982, among other eligibility criteria. A second provision of the law seeks to reduce the employment opportunities of undocumented workers through sanctions against employers who knowingly hire them. The third element is an extended guest-worker program designed to ensure a continuing abundant supply of low-wage workers for agriculture.

So far, the law's overall effectiveness has been limited. While some 1.8 million immigrants applied to regularize their status⁵ (a fairly significant number, though less than expected), there is growing evidence that the employer-sanctions program is resulting in discrimination against minority workers who are in fact U.S. citizens, as well as various abuses against undocumented workers. Meanwhile, illegal immigration has apparently continued to rise. Congressional efforts to correct the law's shortcomings have already begun. In a relatively promising departure from earlier immigration policy, the Senate recently approved a bill that seeks to give higher priority to applicants who satisfy labor needs in the United States.⁴ Though the 54,000 per-year limit placed on such immigrants would still be small, the proposed law would set an important precedent by acknowledging that immigrants, while only about seven percent of the U.S. labor force, have accounted for twenty-two percent of the growth in the workforce since 1970, and by responding to U.S. Department of Labor forecasts of impending labor shortages in a variety of occupations.

Yet even a modified version of the 1986 law has little chance of successfully regulating immigration for one simple reason: like earlier laws, it is based on a faulty understanding of the causes of immigration. By focusing narrowly on immigrants and on the immigration process itself, U.S. policymakers have ignored the broader international forces, many of them generated or at least encouraged by the United States, that have helped give rise to migration flows.

In the 1960s and 1970s, the United States played a crucial role in the development of today's global economic system. It was a key exporter of capital, promoted the development of export-manufacturing enclaves in many Third World countries, and passed legislation aimed at opening its own and other countries' economies to the flow of capital, goods, services, and information. The emergence of a global economy—and the central military, political, and economic role played by the United States in this process—contributed both to the creation abroad of pools of potential emigrants and to the formation of linkages between industrialized and developing countries that subsequently were to serve as bridges for international migration. Paradoxically, the very measures commonly thought to deter immigration—foreign investment and the promotion of export-oriented growth in developing countries—seem to have had precisely the opposite effect. The clearest proof of this is the fact that several of the newly industrializing countries with the highest growth rates in the world are simultaneously becoming the most important suppliers of immigrants to the United States.

At the same time, the transformation of the occupational and income structure of the United States—itself in large part a result of the globalization of production—has expanded the supply of low-wage jobs. The decline of manufacturing and the growth of the service sector have increased the proportion of temporary and part-time jobs, reduced advancement opportunities within firms, and weakened various types of job protection. This “casualization” of the labor market has facilitated the absorption of rising numbers of immigrants during the 1970s and 1980s—a growing Third World immigrant workforce in what is supposedly one of the leading post-industrial economies.⁵ Until we better understand the powerful political and economic forces that drive these international migration flows, and our own role in creating them, U.S. immigration policies will continue to be misguided and frustratingly ineffective.

THE NEW IMMIGRATION

Beginning in the late 1960s, immigration patterns to the United States began to change in several different important ways. First, there was a significant rise in overall annual entry levels. From 297,000 in 1965, immigration levels increased to 373,000 in 1970, rose to 531,000 in 1980, and reached 602,000 in 1986. At the same time, there was a dramatic change in the regional composition of migration flows. As recently as 1960, more than two-thirds of all immigrants entering the United States came from Europe. By 1985, Europe's share of annual entries had shrunk to one-ninth, with the actual numbers of European immigrants declining from almost 140,000 in 1960 to 63,000 in 1985. Today, the vast majority of immigrants to the United States originate in Asia, Latin America, and the Caribbean.

Asians make up the fastest-growing group of legally admitted immigrants. From 25,000 entries in 1960, annual levels of Asian immigrants rose to 236,000 in 1980 and to 264,700 in 1985. While these figures were elevated somewhat by the flow of Southeast Asian refugees admitted in the aftermath of the Vietnam war, refugees account for only a small proportion of the overall rise in Asian immigration. In fact, it is the Philippines, South Korea, and Taiwan, not the refugee-sending countries of Vietnam and Cambodia, that have been the largest Asian sources of immigrants. Even in 1982, when total Asian entries reached an all-time high of 313,000, only 72,000 were Vietnamese, a level that declined to 39,000 by 1983. In the 1980s, the Asian immigration began to include new flows from nations such as Singapore, Malaysia, and Indonesia that had not previously been sources of emigration to the United States.

The increase in Hispanic and West Indian immigration, although not quite as dramatic, has nevertheless been significant. Immigration levels from Latin America and the Caribbean rose in the latter half of the 1960s, then showed a decline in the early 1970s before rising sharply again in the 1980s. Total entries of Hispanics (South and Central Americans, excluding Mexico) reached about 170,000 for the period from 1965 to 1969, declined to 149,000 from 1970 to 1974, and rose to 368,000 from 1980 to 1985. Entries of West Indians reached 351,000 during the period from 1965 to 1969, declined to 318,000 from 1970 to 1975, and rose to 445,000 from 1980 to 1985. (By contrast, there was no comparable dip in the numbers of Asian immigrants in the 1970s.)

The top ten immigrant-sending countries by the late 1980s were all in Latin America, the Caribbean Basin, and Asia. Between 1972 and 1979, Mexico, with more than half a million entries annually, was by far the largest source of legally admitted immigrants, followed by the Philippines with 280,000, South Korea with 225,000, China (defined as including both Taiwan and the People's Republic) with 160,400, India with 140,000, and Jamaica with 108,400. With the exception of Italy, all of the countries sending more than 100,000 immigrants each year were either in the Caribbean Basin or in Asia. Other important sources of immigrants outside these regions were the United Kingdom, West Germany, and Canada, sending about 80,000 each during the 1972-1979 period. By 1987, forty-three percent of the 600,000 entries were from Asia, thirty-five percent from Latin America and the Caribbean Basin, and only ten percent from Europe.

It is important to note that the new Asian immigration, often thought to consist predominantly of professional and middle-class individuals, is increasingly becoming a working-class migration. In several cases, what began as middle-class migrations eventually paved the way for the migration of poorer strata as well as undocumented immigrants. This has been true of South Korean migration, for example, which now includes significant numbers of undocumented immigrants and sweatshop employees, as well as of Filipino and Colombian migration.

Another feature of the new immigration is the growing prominence of female immigrants. During the 1970s, women made up sixty percent of all immigrants from the Philippines, sixty-one percent of South Korean immigrants, fifty-three percent of Chinese, fifty-two percent of Dominicans, fifty-two percent of Colombians, fifty-three percent of Haitians, and fifty-two percent of immigrants from Hong Kong.⁵ Even in the well-established, traditionally male-dominated migration flow from Mexico, women now make up almost half of all legal immigrants.⁶

Although most female immigrants still enter as dependents of various kinds, a small but growing number now enter classified as workers. This would appear to indicate that an increasing number of women are migrating independently, in some cases leaving their husbands and children behind. Women represented 45.6 percent of all immigrants admitted legally from 1972 to 1979 under the preference category of skilled and unskilled workers in short supply.⁷ Moreover,

women made up more than half of the 290,000 admitted under the nonpreference immigrant category, which consists of the spaces that become available when the preference quotas are not fully used.⁸

The new immigration is further characterized by the immigrants' tendency to cluster in a few key U.S. regions. This was true as well of earlier immigration waves, of course; in the early 1900s, New York, Pennsylvania, and Illinois attracted the majority of immigrants.⁹ Today, however, there are more ports of entry, a better developed transportation system, and a far-flung distribution of jobs—all of which would seem to facilitate the geographical scattering of immigrants. Yet the states of California and New York receive almost half of all new immigrants, while another one-fourth go to New Jersey, Illinois, Florida, and Texas.

Moreover, the new immigrants tend to cluster in the largest metropolitan areas, such as New York, Los Angeles, San Francisco, Chicago, Houston, and Miami. According to the 1980 census, about one-fifth of all foreign-born residents of the United States lived in New York and Los Angeles; by contrast, these cities contained less than one percent of the total U.S.-born population in 1980. About forty percent of immigrants settle in the ten largest U.S. cities, which together account for less than ten percent of the total U.S. population. In these cities, immigrants make up a considerably higher proportion of the population than they do of the U.S. population as a whole. Thus, while immigrants constitute at most ten percent of the U.S. population, by 1987 they made up thirty percent of the population of New York City and fifteen percent of the populations of Los Angeles and Chicago.

THE INADEQUACY OF CLASSICAL EXPLANATIONS

The main features of the new immigration—in particular, the growing prominence of certain Asian and Caribbean Basin countries as sources of immigrants and the rapid rise in the proportion of female immigrants—cannot be adequately explained under the prevailing assumptions of why migration occurs. Even a cursory review of emigration patterns reveals that there is no systematic relationship between emigration and what conventional wisdom holds to be the principal causes of emigration—namely overpopulation, poverty, and economic stagnation.

Population pressures certainly signal the possibility of increased

emigration. Yet such pressures—whether measured by population growth or population density—are not in themselves particularly helpful in predicting which countries will have major outflows of emigrants, since some countries with rapidly growing populations experience little emigration (many Central African countries fall into this category), while other countries with much lower population growth rates (such as South Korea), or relatively low density (such as the Dominican Republic), are major sources of migrants.

Nor does poverty in itself seem to be a very reliable explanatory variable. Not all countries with severe poverty experience extensive emigration, and not all migrant-sending countries are poor, as the case of South Korea and Taiwan illustrate. The utility of poverty in explaining migration is further called into question by the fact that large-scale migration flows from most Asian and Caribbean Basin countries started only in the 1960s, despite the fact that many of these countries had long suffered from poverty.

The presumed relationship between economic stagnation and emigration is similarly problematic. It is commonly assumed that the lack of economic opportunities in less developed countries, as measured by slow growth of gross national product (GNP), plays a key role in inducing individuals to emigrate. But the overall increase in emigration levels took place at a time when most countries of origin were enjoying rather rapid economic growth. Annual GNP growth rates during the 1970s ranged from five to eight percent for most of the leading migrant-sending countries. In fact, most of the key emigration countries were growing considerably faster than other countries that did not experience large-scale emigration. South Korea is the most obvious example. With a GNP growth rate that was among the highest in the world during the 1970s, it was also one of the countries with the fastest-growing level of migration to the United States.

This is not to say that overpopulation, poverty, and economic stagnation do not create pressures for migration; by their very logic, they do. But it is clear that the common identification of emigration with these conditions is overly simplistic. The evidence suggests that these conditions are not sufficient by themselves to produce large new migration flows. Other intervening factors need to be taken into account—factors that work to transform these conditions into a migration-inducing situation.

Take, for example, the cases of Haiti and the Dominican Republic.

At first glance, the high levels of emigration from these countries would seem to offer support for the argument that overpopulation, poverty, and economic stagnation cause migration. Yet one is struck by the fact that these conditions were present in both countries long before the massive outflow of emigrants began. What, then, accounted for the sudden upsurge?

In the case of the Dominican Republic, the answer seems to lie in the linkages with the United States that were formed during the occupation of Santo Domingo by U.S. Marines in 1965 in response to the election victory of the left-wing presidential candidate Juan Bosch. The occupation not only resulted in the growth of political and economic ties with the United States but also produced a stream of middle-class political refugees who emigrated to the occupying country. The settlement of Dominican refugees in the United States in turn created personal and family linkages between the two countries. U.S.-Dominican ties were subsequently further consolidated through U.S. investment in Dominican agriculture and manufacturing for export. Migration to the United States began to increase soon thereafter, rising from a total of 4,500 for the period from 1955 to 1959 to 58,000 between 1965 and 1969. Thus, the new developments that appear to have coincided with the initiation of large-scale emigration were the establishment of close military and personal ties with the United States and the introduction of U.S. direct foreign investment.

Haiti, on the other hand, was not subjected to direct U.S. military intervention, but the establishment of linkages with the United States and the introduction of direct foreign investment seem to have played a similarly important role in producing emigration. Although Haiti has long been desperately poor, massive migration to the United States began only in the early 1970s. In this case, the key new development or intervening process appears to have been the adoption of an export-oriented economic growth policy by President Jean-Claude Duvalier in 1972. Haiti's economy was opened to foreign investment in export manufacturing and to large-scale development of commercial agriculture, with the United States serving as the key partner in this new strategy. The necessary labor supply for these new modes of production was obtained through the massive displacement of small landholders and subsistence farmers. This upheaval in Haiti's traditional occupational structure, in conjunction with growing government repression and the emergence of close political and economic

links with the United States, coincided with the onset of a major migration flow to the United States.

In both cases, then, the establishment of political, military, and economic linkages with the United States seems to have been instrumental in creating conditions that allowed the emergence of large-scale emigration.¹⁰ Such linkages also played a key role in the migration of Southeast Asians to the United States. In the period following the Korean War, the United States actively sought to promote economic development in Southeast Asia as a way of stabilizing the region politically. In addition, U.S. troops were stationed in Korea, the Philippines, and Indochina. Together, U.S. business and military interests created a vast array of linkages with those Asian countries that were later to experience large migration flows to the United States. The massive increase in foreign investment during the same period, particularly in South Korea, Taiwan, and the Philippines, reinforced these trends.

In other words, in most of the countries experiencing large migration flows to the United States, it is possible to identify a set of conditions and linkages with the United States that, together with overpopulation, poverty, or unemployment, induce emigration. While the nature and extent of these linkages vary from country to country, a common pattern of expanding U.S. political and economic involvement with emigrant-sending countries emerges. (See Sassen 1988 for a full development of these issues.)

A key element in this pattern is the presence of direct foreign investment in production for export. U.S. investment in the less developed countries quintupled between 1965 and 1980, with much of it going to a few key countries in the Caribbean Basin and Southeast Asia and a large proportion channeled into the development of consumer goods such as toys, apparel, textiles, and footwear. Industries producing for export are generally highly labor intensive (this is, of course, a primary rationale for locating factories in low-wage countries). The labor-intensive nature of these industries is one reason why several of the Asian and Caribbean Basin countries that have been major recipients of direct foreign investment have experienced rapid employment growth, especially in the manufacturing sector. (See also chap. 6 here.)

According to traditional understandings of why migrations occur, this combination of economic trends should have helped to deter emi-

gration, or at least to keep it at relatively low levels. The deterrent effect should have been particularly strong in countries with high levels of export-oriented investment, because such investment creates more employment—managerial and clerical as well as production jobs—than other forms of investment. Yet it is precisely such countries, most notably the newly industrializing countries of Southeast Asia, that have been the leading source of new immigrants. How, then, does foreign investment, especially foreign investment in export industries, explain this seeming contradiction? In particular, how is it that foreign investment can produce both rapid economic growth and high emigration levels in a single country?

THE INTERNATIONALIZATION OF PRODUCTION

To understand why large-scale migrations have originated in countries with high levels of job creation due to foreign investment in production for export, it is necessary to examine the impact of such investment on the economic and labor structure of developing countries.

Perhaps the single most important effect of foreign investment in export production is the uprooting of people from traditional modes of existence. It has long been recognized that the development of commercial agriculture tends to displace subsistence farmers, creating a supply of rural wage laborers and giving rise to mass migrations to cities. In recent years, the large-scale development of export-oriented manufacturing in Southeast Asia and the Caribbean Basin has come to have a similar effect (though through different mechanisms); it has uprooted people and created an urban reserve of wage laborers. In both export agriculture and export manufacturing, the disruption of traditional work structures as a result of the introduction of modern modes of production has played a key role in transforming people into migrant workers and, potentially, into emigrants.

In export manufacturing, the catalyst for the disruption of traditional work structures is the massive recruitment of young women into jobs in the new industrial zones. Most of the manufacturing in these zones is of the sort that employs a high proportion of female workers in industrialized countries as well: electronics assembly and the manufacture of textiles, apparel, and toys. The exodus of young women to the industrial zones typically begins when factory repre-

representatives recruit young women directly in their villages and rural schools; eventually, the establishment of continuous migration streams reduces or eliminates the need for direct recruitment.¹¹ The most obvious reason for the intensive recruitment of women is firms' desire to reduce costs, but there are other considerations as well: young women in patriarchal societies are seen by foreign employers as obedient and disciplined workers, willing to do tedious, high-precision work and to submit themselves to work conditions that would not be tolerated in the highly developed countries. (See also chap. 6 here.)

This mobilization of large numbers of women into waged labor has a highly disruptive effect on traditional, often unwaged, work patterns. In rural areas, women fulfill important functions in the production of goods for family consumption or for sale in local markets. Village economies and rural households depend on a variety of economic activities traditionally performed by women, ranging from food preparation to cloth weaving, basket making, and various other types of crafts.¹² All these activities are undermined by the departure of young women for the new industrial zones.

One of the most serious—and ironic—consequences of the feminization of the new proletariat has been to increase the pool of wage laborers and thus contribute to male unemployment. Not only does competition from the increased supply of female workers make it more difficult for men to find work in the new industrial zones, but the massive departure of young women also reduces the opportunities for men to make a living in many rural areas, where women are key partners in the struggle for survival. Moreover, in some of the poorer and less developed regions and countries, export-led production employing primarily women has come to replace more diversified forms of economic growth that are oriented to the internal market and typically employ men as well. The impressive employment growth figures recorded by most of the main emigration countries in recent years have obscured the reality that export-led growth can lead to unemployment for some groups even as it creates jobs for others.¹³

For men and women alike, the disruption of traditional ways of earning a living and the ascendance of export-led development make entry into wage labor increasingly a one-way proposition. With traditional economic opportunities in the rural areas shrinking, it becomes difficult, if not impossible, for workers to return home if they are laid

off or unsuccessful in the job search. This is a particularly serious problem for female workers in the new industrial zones, who are often fired after just a short period of employment. After three to five years of assembling components under microscopes, these workers typically suffer from headaches and deteriorating eyesight. In order to keep wage levels low and replace workers whose health begins to fail, firms continually fire their older workers and hire younger, healthier, and more compliant cohorts of women.¹⁴ Moreover, in the late 1970s and early 1980s, many companies began to move their plants out of older export manufacturing zones, where tax concessions from local governments had been exhausted, and into "new" countries such as Sri Lanka and Indonesia, where labor was even cheaper. All these trends have contributed to the formation of a pool of potential migrants in developing countries such as the Philippines, South Korea, Taiwan, and the countries of the Caribbean Basin. People uprooted from their traditional ways of life, then left unemployed and unemployable as export firms hire younger workers or move production to other countries, may see few options but emigration, especially if an export-led growth strategy has weakened the country's domestic market-oriented economy.

But the role played by foreign investment in allowing the emergence of large-scale emigration flows does not end there. In addition to eroding traditional work structures and creating a pool of potential migrants, foreign investment in production for export contributes to the development of economic, cultural, and ideological linkages with the industrialized countries. These linkages tend to promote the notion of emigration both directly and indirectly. Workers actually employed in the export sector—whether managers, secretaries, or assemblers—may experience the greatest degree of Westernization and be most closely connected to the country supplying the foreign capital; they are, after all, using their labor power to produce goods and services for people and firms in developed countries. For these workers, already oriented toward Western practices and modes of thought in their daily experience on the job, the distance between a job in the offshore plant or office and a comparable job in the industrialized country itself is subjectively reduced. It is not hard to see how such individuals might come to regard emigration as a serious option. (See also the next chapter on how this may be happening with Japanese off-shore production.)

In addition to the direct impact on workers in the export sector, the linkages created by direct foreign investment also have a generalized Westernizing effect on the less developed country and its people. This "ideological" effect in promoting emigration should not be underestimated; it makes emigration an option not just for those individuals employed in the export sector but for the wider population as well. Thus, a much larger number of people than those directly or indirectly employed by foreign-owned plants and offices become candidates for emigration. In fact, the workers actually employed in foreign plants, offices, and plantations may not be the ones most likely to make use of these linkages and emigrate.

Although foreign investment, along with other political, military, and cultural links, helps to explain how migration becomes an option for large numbers of individuals in some developing countries, it does not fully explain why the United States has been overwhelmingly the main destination for migrants.¹⁵ After all, Japan, West Germany, the Netherlands, and Great Britain all have direct foreign investment in developing countries. The evidence seems to suggest that, given the complex and indirect relationship between foreign investment and migration, the national origin of the foreign capital that enters a country may matter less than the type of production it goes into (i.e., labor-intensive export production) and than the other linkages that recipient countries may have already established with capital-sending countries. Thus, high levels of Japanese foreign investment in export production in the 1970s may well have ultimately promoted migration to the United States, because the United States had a greater number of other linkages with developing countries at the time—a function of its economic and military dominance—and was presumably seen as a more hospitable country for immigration.

It is in this context that the 1965 liberalization of U.S. immigration law and the unfading image of the United States as a land of opportunity acquire significance. The conviction among prospective emigrants that the United States offers unlimited opportunities and plentiful employment prospects, at least relative to other countries, has had the effect of making "emigration" almost identical with "emigration to the United States." This has tended to create a self-reinforcing migration pattern to the United States. As new bridges for migrants are created by foreign investment (in conjunction with political and military activity) and strengthened by the existence of

economic opportunities in the United States, the resulting new migrations create additional bridges or linkages between the United States and migrant-sending countries. These, in turn, serve to facilitate future emigration to the United States, regardless of the origin of the foreign investment that created the conditions for emigration in the first place.

Although the United States remains the most important destination for migrants, the recent experience of Japan may offer a glimpse of what the future holds. As Japan has become the leading global economic power and the major foreign investor in Southeast Asia in the 1980s, a familiar combination of migration-facilitating processes appears to have been set in motion: the creation of linkages that eventually come to serve as bridges for potential emigrants, and the emergence of emigration to Japan as something that would-be emigrants see as a real option. (This is discussed further in the next chapter.)

THE NEW LABOR DEMAND IN THE UNITED STATES

At first glance, both the heavy influx of immigrants into the United States over the past two decades and their clustering in urban areas would appear to defy economic logic. Why would an increasing number of immigrants come to this country at a time of high overall unemployment and sharp losses of manufacturing and goods-handling jobs? And why would they settle predominantly in the largest U.S. cities, when many of these were in severe decline as centers of light manufacturing and other industries that traditionally employed immigrants? The liberalization of immigration legislation after 1965 and the prior existence of immigrant communities in major urban centers no doubt played some role in attracting immigrants from the older, primarily European, emigration countries. But the most important reason for the continuation of large inflows among the new migrant groups has been the rapid expansion of the supply of low-wage jobs in the United States and the casualization of the labor market associated with the new growth industries, particularly in the major cities. (These are subjects discussed in detail in chapters 7 and 8.)

Thus, any analysis of the new immigration is incomplete without an examination of the changes in labor demand in the United States. In fact, one might argue that while the internationalization of the

economy has contributed to the *initiation* of labor migration flows to the United States, their *continuation* at high and ever-increasing levels is directly related to the economic restructuring in the United States. This restructuring also helps to explain the concentration of most of the new immigrants in large cities.¹⁵

The increase in low-wage jobs in the United States is in part a result of the same international economic processes that have channeled investment and manufacturing jobs to low-wage countries. As industrial production has moved overseas, the traditional U.S. manufacturing base has eroded and been partly replaced by a downgraded manufacturing sector, which is characterized by a growing supply of poorly paid, semi-skilled or unskilled production jobs. At the same time, the rapid growth of the service sector has created vast numbers of low-wage jobs (in addition to the better-publicized increase in highly paid investment banking and management consulting jobs). Both of these new growth sectors are largely concentrated in major cities. Such cities have seen their economic importance further enhanced as they have become centers for the management and servicing of the global economy; as Detroit has lost jobs to overseas factories, New York and Los Angeles have gained jobs managing and servicing the global network of factories.

These trends have brought about a growing polarization in the U.S. earnings structure since the late 1970s. Along with a sharp decline in the number of middle-income blue- and white-collar jobs, there has been a modest increase in the number of high-wage professional and managerial jobs and a vast expansion in the supply of low-wage jobs. Between 1963 and 1973, nine out of ten new jobs created were in the middle-earnings group, while the number of high-paying jobs was shrinking. Since 1973, by contrast, only one in two new jobs has been in the middle-income category. If one takes into consideration the increase in the number of seasonal and part-time workers, then the growing inequality within the labor force becomes even more pronounced. The proportion of part-time jobs increased from fifteen percent in 1955 to twenty-two percent in 1977.¹⁶ By 1986, part-time workers made up fully a third of the labor force; about eighty percent of these fifty million workers earn less than \$11,000 a year.¹⁷

These changes have been reflected in a decline in average wages and an increasing polarization of income distribution. Inflation-adjusted average weekly wages, which rose steadily during the post-

war period and peaked in 1973, stagnated during the rest of the 1970s and fell into the 1980s. This decline was accompanied by an increase in the degree of inequality in the distribution of earnings, a trend that first emerged in the 1970s and accelerated in the 1980s.¹⁸ A report released recently by the staff of the House Ways and Means Committee found that from 1979 to 1987, the bottom fifth of the population experienced a decline of eight percent in its personal income, while the top fifth saw its income increase by sixteen percent.¹⁹

As mentioned earlier, one important generator of new low-wage jobs has been the downgraded manufacturing sector. This sector of the U.S. economy was created by the convergence of three trends: the social reorganization of the work process, notably the growing practice of subcontracting out production and service work and the expansion of sweatshops and industrial homework (all of which have the effect of isolating workers and preventing them from joining together to defend their interests); the technological transformation of the work process, which has downgraded the skill levels required for a variety of jobs by incorporating skills into machines and computers; and the rapid growth of high-technology industries that employ large numbers of low-wage production workers. Somewhat surprising, the downgrading of the skill and wage levels of industrial production jobs has taken place across a broad spectrum of industries—from the most backward to the most modern. Thus, while the garment and electronics industries would at first glance appear to have little in common, both have produced large numbers of dead-end, low-wage jobs requiring few skills. Both industries have made use of unconventional production processes such as sweatshops and industrial homework. Moreover, both have contributed to the disenfranchisement of workers, as is evident from the decline in union membership in areas of rapid high technology growth such as Los Angeles and Orange counties in California.²⁰

More important than the downgraded manufacturing sector as a source of new low-wage jobs, however, is the growth of the service sector.²¹ Unlike traditional manufacturing, which is characterized by a preponderance of middle-income jobs, the majority of service jobs tend to be either extremely well paid or very poorly paid, with relatively few jobs in the middle-income range. The growth industries of the 1980s—finance, insurance, real estate, retail trade, and business services—feature large proportions of low-wage jobs, weak unions, if

any, and a high proportion of part time and female workers. Sales clerks, waitresses, secretaries, and janitors are among the growth occupations. The Bureau of Labor Statistics has reported declines in real earnings in these industries since the 1970s.²² (For an update, see chap. 7 here.)

In addition to employing low-wage workers directly, the expanded service sector also creates low-wage jobs indirectly, through the demand for workers to service the lifestyles and consumption requirements of the growing high-income professional and managerial class. The concentration of these high-income workers in major cities has facilitated rapid residential and commercial gentrification, which in turn has created a need for legions of low-wage service workers—residential building attendants, restaurant workers, preparers of specialty and gourmet foods, dog walkers, errand runners, apartment cleaners, childcare providers, and so on. The fact that many of these jobs are “off the books” has meant the rapid expansion of an informal economy in several major U.S. cities. For a variety of reasons, immigrants are more likely than U.S. citizens to gravitate toward these jobs: these jobs are poorly paid, offer little employment security, generally require few skills and little knowledge of English, and frequently involve undesirable evening or weekend shifts. In addition, the expansion of the informal economy facilitates the entry of undocumented immigrants into these jobs. (See chap. 8 here.)

Whether in the service sector or the downgraded manufacturing sector, the new low-paying jobs attract large numbers of immigrants. Significantly, even immigrants who are highly educated and skilled when they arrive in the United States tend to gravitate toward the low-wage sectors of the economy.²⁵ The growing absorption of educated immigrants is partly linked to the growth of clerical and technical jobs in the service sector and the increased casualization of the labor market for these jobs.

Thus, while the redeployment of manufacturing to less developed countries has helped promote emigration from these countries, the concentration of servicing and management functions in major U.S. cities has created conditions for the absorption of the immigrant influx in New York, Los Angeles, Miami, Chicago and Houston. The same set of processes that has promoted emigration from several rapidly industrializing countries has simultaneously promoted immigration into the United States.

The fact that it is the major growth sectors such as high technology and services, rather than the declining sectors of the U.S. economy, that are the primary generators of low-wage jobs suggests that the supply of such jobs will probably continue to expand for the foreseeable future. As long as it does so, the influx of immigrant workers to fill these jobs is likely to continue as well.

TOWARD A WORKABLE IMMIGRATION POLICY

The Achilles' heel of U.S. immigration policy has been its insistence on viewing immigration as an autonomous process unrelated to other international processes. It should be clear by now that powerful international forces are at work behind the outflow of emigrants from the developing world and the influx of immigrants into the United States. Yet U.S. officials and the public at large persist in viewing immigration as a problem whose roots lie exclusively in the inadequacy of socioeconomic conditions in the Third World, rather than also being a by-product of U.S. involvement in the global economy. As a result, they fail to recognize that the proposals dominating the debate on immigration policy—sanctions on employers, deportation of illegal immigrants, stepped-up border patrols—are unlikely to stem the flow.

The 1986 immigration law, ostensibly designed to rationalize immigration policy, has not only failed to slow immigration but threatens to do harm both to our own society and to the immigrants themselves. The employer-sanctions program will consolidate a supply of powerless, low-wage workers by further restricting the job opportunities of undocumented immigrants who do not qualify for regularization. The combination of such sanctions and a regularization program that excludes a large number of undocumented workers will contribute to the formation of an immigrant underclass that is legally as well as economically disadvantaged. The expanded guest-worker program is likely to hamper the efforts of domestic agricultural workers to improve their own wages and work conditions. Moreover, this guest-worker program may bring about the development of new linkages with the countries sending agricultural workers, thereby having the unintended effect of facilitating new illegal migration outside the bounds of the program.

A workable U.S. immigration policy would be based on the recognition that the United States, as a major industrial power and supplier

of foreign investment, bears a certain amount of responsibility for the existence of international labor migrants. The past policies of the United States toward war refugees might serve as a model for a re-fashioned immigration policy. Few people would assert that flows of refugees from Indochina after the Vietnam War were caused by overpopulation or economic stagnation, even though the region may in fact have suffered from these problems. Instead, it is widely recognized that U.S. military activities were to some degree responsible for creating the refugee flows. When the United States granted Indochinese refugees special rights to settle here, it was acknowledging this responsibility, at least indirectly. A similar acknowledgment is due in the case of labor migrations.

When drafting laws in most areas of foreign relations, lawmakers generally make an effort to weigh the differing degrees of responsibility of various actors and take into account such complex phenomena as the globalization of production and international flows of capital and information. Why, then, is it not possible to factor in similar considerations in the designing of immigration policy? To be sure, international migration poses special problems in this regard, because the relationship of immigration to other international processes is not readily apparent or easily understood. But the overly simplistic approach most policymakers have adopted until now has greatly hindered the fashioning of a fair and effective immigration policy. The precise features of such a policy will have to be elaborated through further study and debate. But one thing is clear: U.S. immigration policy will continue to be counterproductive as long as it places the responsibility for the formation of international migrations exclusively on the shoulders of the immigrants themselves.

NOTES

- 1 This chapter is drawn from the author's book *The Mobility of Labor and Capital: A Study in International Investment and Labor Flow* (New York: Cambridge University Press, 1988).
- 2 Earlier agreements barred Chinese labor immigration (1882), restricted Japanese immigration (1907), and culminated in the 1924 National Origins Act. This act was the first general immigration law in that it brought together the growing number of restrictions and controls that had been established over a period of time: the creation of classes of inadmissible aliens, deportation laws, literacy requirements, etc. The 1985 immigration law ended these restrictions. In this sense it was part of a much broader legislative effort to end various forms of discrimination in the United States, such as discrimination against minorities and women.

- 3 About 1.8 million aliens applied under the main legalization program; in addition, 1.2 million applied under special legalization programs for agriculture. While the majority applying under the main program are expected to obtain temporary resident status, it is now becoming evident that a growing proportion may not be complying with the second requirement of the procedure, that of applying for permanent residence.
- 4 Several clauses are attached to the bill, ranging from a doubling of Hong Kong's special visa allowance to the granting of 4,800 visas each year to millionaires prepared to employ at least ten U.S. workers. The bill also expands two existing worker preferences: professionals who are outstanding artists and individuals in occupations that cannot be filled by U.S. workers.
- 5 Detailed documentation of these issues can be found in Sassen, *The Mobility of Labor and Capital*.
- 6 For the case of the undocumented Mexican migration, see R. Warren and J. S. Passel, *Estimates of Illegal Aliens from Mexico Counted in the 1980 U.S. Census* (Washington, DC: Bureau of the Census, Population Division, 1985).
- 7 Marion F. Houstoun, et al., "Female Predominance of Immigration to the United States Since 1950: A First Look," *International Migration Review*, vol. 28, no. 4 (winter 1984), 945.
- 8 Nonpreference classes result from undersubscription of preference classes. Nonpreference entries ceased to be available in 1978, but recent lawsuits opened up admissions in this class again beginning in 1985.
- 9 *Abstracts of Reports of the Immigration Commission*, U.S. Senate, 61st Congress (Washington, D.C.: U.S. Government Printing Office, 1911), 105.
- 10 See also *Labor Migration Under Capitalism: The Puerto Rican Experience*, a study by the history task force of the Centro de Estudios Puertorriqueños (New York: Monthly Review Press, 1979); Alejandro Portes and John Walton, *Labor, Class and the International System* (New York: Academic Press, 1981).
- 11 See, for example, Norma Diamond, "Women and Industry in Taiwan," *Modern China*, vol. 5, no. 5 (July 1979), 317-40. In her research in Taiwan, one of the most developed of the Asian countries, Diamond found that women were actively sought out by factory representatives who went to the rural sectors to recruit them. About seventy-five percent of the female industrial workforce in Taiwan is between fifteen and twenty-four years of age. See also Helen I. Safa, "Runaway Shops and Female Employment: The Search for Cheap Labor," *Signs*, vol. 7, no. 2 (winter 1981), 418-35.
- 12 See E. Boserup, *Women's Role in Economic Development* (New York: St. Martin's Press, 1970); also E. Boulding, *Women: The Fifth World*, Foreign Policy Association Headline Series no. 48 (Washington, D.C.: February 1980).
- 13 In a detailed examination of the employment impact of export-led industrialization, the United Nations Industrial Development Organization (UNIDO) found that, in general, this type of development eliminates more jobs than it creates because of its disruptive effect on the national manufacturing sector, especially in the less developed countries of the Caribbean and South-east Asia. *World Industry Since 1960: Progress and Prospects* (Vienna: UNIDO, 1979).
- 14 See June Nash and Maria Patricia Fernandez Kelly, *Women and Men in the International Divisions of Labor* (Albany, N.Y.: SUNY Press, 1985). See also the film *The Global Assembly Line*, by Lorraine Gray.
- 15 See the next chapter for a discussion of how such tendencies toward casualization are also operating in major cities in Japan. This is an important process facilitating the labor market incorporation of the new illegal immigration to Japan.

- 16 Paul Blumberg, *Inequality in an Age of Decline* (New York: Oxford University Press, 1986), 67 and 79; W. V. Deutermann, Jr. and S. C. Brown, "Voluntary Part-Time Workers: A Growing Part of the Labor Force," *Monthly Labor Review*, no. 101 (June 1978).
- 17 Bennett Harrison and Barry Bluestone, *The Great U-Turn* (New York: Basic Books, 1988). Even the U.S. government, in an effort to cut labor costs, has increasingly encouraged the use of part-time and temporary workers in its own hiring. The result has been a growing trend toward subcontracting out such services as food preparation, building maintenance, warehousing, and data processing. U.S. Congressional Budget Office, *Contract Out: Potential for Reducing Federal Costs* (Washington, D.C.: U.S. Government Printing Office, June 1987).
- 18 It should be noted that notwithstanding an increase in multiple-earner families and an increase in transfer payments, family income distribution in the United States has also become more unequal. Blumberg found that family income adjusted for inflation increased by thirty-three percent from 1948 to 1958 and by forty-two percent from 1958 to 1968, but grew by only nine percent from 1968 to 1978. Median family income kept growing throughout the postwar period but stagnated after 1973. Blumberg op. cit.
- 19 Linda Bell and Richard Freeman, "The Facts About Rising Industrial Wage Dispersion in the U.S.," PROCEEDINGS (Industrial Relations Research Association, May 1987); Organization for Economic Cooperation and Development, *OECD Employment Outlook* (Paris: OECD, 1985), 90-91. Several analysts maintain that the increase in inequality in the earnings distribution is a function of demographic shifts, notably the growing participation of women in the labor force and the large number of young workers of the "baby boom" generation. Both of these categories of workers traditionally earn less than white adult males. See Robert Z. Lawrence, "Sectoral Shifts and the Size of the Middle Class," *Brookings Review*, Fall 1984. However, when Harrison and Bluestone (op. cit.) analyzed the data while controlling for various demographic factors as well as the shift to a service economy (another category with a prevalence of low-wage jobs), they found that these demographic variables did not adequately account for the increased inequality in the earnings distribution. Rather, they found that *within* each group, (e.g., white women, young workers, white adult men, and so on), there has been an increase in earnings inequality. They also found that the growth of the service sector accounted for one-fifth of the increase in inequality, but that most of the rest of the growth in inequality occurred *within* industries. (See their appendix Table A.2 for analysis of eighteen demographic, sectoral, and regional factors.) The authors explain the increased inequality in the earnings distribution in terms of the restructuring of wages and work hours (chaps. 2 and 3).
- 20 See various articles on this topic in Nash and Fernandez Kelly op. cit.
- 21 The decline of mass production as the central force in national growth and the shift to services as the leading economic sector have contributed to the demise of a broader set of social and economic arrangements. In the postwar period, the economy functioned according to a dynamic that transmitted the benefits accruing to the core manufacturing industries to more peripheral sectors of the economy. The benefits of price and market stability and increases in productivity were transferred to a secondary set of firms, which included suppliers and subcontractors as well as less directly related industries. Although there were still firms and workers that did not benefit from this "shadow effect," their number was probably small in the postwar period. By the early 1980s, the shadow effect and the wage-setting power of leading industries had eroded significantly. The importance of this combination of processes for the expansion of the middle class and the overall rise in wages can be seen in the comparison of data for the postwar period with the income trends of the past two decades. See Barbara Ehrenreich, *Fear of Falling* (New York: Pantheon, 1989) on the meaning of this process for the middle class in the 1980s.
- 22 See Robert G. Sheets, Stephen Nord, and John J. Phelps, *The Impact of Service Industries on Underemployment in Metropolitan Economies* (Lexington, Mass: D.C. Heath and Co., 1987). An

overall measure of the weight of low-wage jobs in service industries can be found in this study, which is the most detailed analysis of the impact of service growth on the creation of low-wage jobs in major metropolitan areas using census data for 1970 and 1980. The authors found that from 1970 to 1980 certain service industries had a significant effect on the growth of what they define as underemployment, that is, employment paying below poverty-level wages in the 100 largest metropolitan areas. The highest relative contribution resulted from what the authors call "corporate services" (finance, insurance, real estate, business services, legal services, membership organizations, and professional services) such that a one percent increase in employment in these services was found to result in a 0.37 percent increase in full-time, year-round low-wage jobs, while a one percent increase in distributive services resulted in a 0.32 percent increase in such jobs. The retail industry had the highest effect on the creation of *part-time*, year-round, low-wage jobs, such that a one percent increase in retail was found to result in a 0.88 percent increase in such jobs.

- 23 According to the Immigration and Naturalization Service, twenty-five percent of both male and female immigrants entering between 1985 and 1987 reported managerial and professional occupations, and about forty-eight percent reported being operators (a broad category of jobs ranging from assembly line workers to elevator operators), laborers, or farmworkers.

GLOBALIZATION AND ITS DISCONTENTS

Also by Saskia Sassen

The Global City

The Mobility of Labor and Capital

Losing Control

S A S K I A S A S S E N

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TOWARD A FEMINIST ANALYTICS
OF THE GLOBAL ECONOMY¹

The current phase of the world economy is characterized by significant discontinuities with the preceding periods and radically new arrangements.² This becomes particularly evident when one examines the impact of globalization on the territorial organization of economic activity and on the organization of political power. Economic globalization has reconfigured fundamental properties of the nation-state, notably exclusive territoriality and sovereignty. There is an incipient unbundling of the exclusive territoriality we have long associated with the nation-state.³ The most strategic instantiation of this unbundling is the global city, which operates as a partly denationalized platform for global capital. At a lower order of complexity, the transnational corporation and global finance markets can also be seen as having this effect through their cross-border activities and the new legal regimes that frame these activities. Sovereignty is also being unbundled by these economic practices, noneconomic practices, and new legal regimes. At the limit this means the state is no longer the only site of sovereignty and the normativity that accompanies it. Further, the state is no longer the exclusive subject for international law. Other actors, from NGOs and first-nation people to supranational organizations, are increasingly emerging as subjects of international law and actors in international relations.

Developing a feminist analytics of today's global economy will require us to factor in these transformations if we are to go beyond merely updating the economic conditions of women and men in different countries. Much of the feminist scholarship examining the is-

sue of women and the economy and the issue of women and the law has taken the nation-state as a given or as the context within which to examine the issues at hand. This approach is a major and necessary contribution. But now, considering the distinct impact of globalization on key systemic properties of the state—i.e., exclusive territoriality and sovereignty—it becomes important to subject these properties to critical examination.

The purpose here is to contribute to a feminist analytics that allows us to re-read and reconceptualize major features of today's global economy in a manner that captures strategic instantiations of gendering as well as formal and operational openings that make women visible and lead to greater presence and participation. This re-reading differs markedly from mainstream accounts of the global economy. Such mainstream accounts emphasize only technical and abstract economic dynamics and proceed as if these dynamics are inevitably gender-neutral yet rarely, if ever, address this matter.

My effort is to expand the analytic terrain within which we need to understand the global economy in order to render visible what is now evicted from the account. My starting point is based on my studies of the global economy over the last twenty years. Through these studies I have found that the mainstream account of economic globalization is confined to a very narrow analytic terrain. That account operates like a "narrative of eviction," because it excludes a whole range of workers, firms, and sectors that do not fit the prevalent images of globalization. And, in that sense, the rhetoric of international relations, and its most formal instance, international law, can also be seen as a narrative of eviction. This rhetoric traces the state as its exclusive subject and has excluded other actors and subjects. These narratives are centered in a vast array of micropractices and cultural forms enacted, constituted, and legitimized by men and/or in male-gendered terms. Further, on the operational level, one could say that notwithstanding the growing number of top-level women professionals in global economic activities and in international relations, both these worlds can be specified as male gendered insofar as each in its distinct way has the cultural properties and power dynamics that we have historically associated with men of power, or at least some power.

Here, I specify two strategic research sites for an examination of the organizing dynamics of globalization and begin examining how gen-

dering operates in order to develop a feminist reading. These two sites are derived from two major properties of the modern state, exclusive territoriality and sovereignty, and their unbundling under the impact of globalization. The purpose is not an all-encompassing enumeration of gender inequalities. The purpose is to specify sites for the strategic instantiation of gendering and for new forms of women's presence. This paper is a mere beginning—an analytic stage on which we need to place the details contributed by ethnographic research, cultural critiques, sociological surveys, and legal scholarship on men and women in their many specific conditions and subjectivities.

In the first section, I review some of the literature pertinent to this project. In the second and third sections, I focus on the unbundling of state territoriality through one very specific strategic research site, the global city, and try to lay out the implications for empirical and theoretical work on the question of women in the global economy. In the fourth section, I examine the unbundling of sovereignty in an age of globalization in order to explain the implications of the emergence of other actors in international relations and other subjects of international law. While in many ways each of these represent distinct research and theorization efforts encased in very separate bodies of scholarship, both focus on crucial aspects of the broader globalization process and its impact on the organization of the economy and of political power. We must factor both of these aspects into a feminist analytics of the global economy. Here I can only touch on many of these issues and hence this paper is inevitably an incomplete account.

STRATEGIC INSTANTIATIONS OF GENDERING IN THE GLOBAL ECONOMY

We can identify two older phases in the study of gendering in the recent history of the world economy, both concerned with longer-standing processes of internationalization, and a third phase focused on very recent transformations, often involving an elaboration of the categories and findings of the previous two phases. The research and theorization effort of the first two phases was largely engaged in recovering the role of women in international economic development research so as to balance the excessive, typically unexplicated, focus on men.

A first phase is the development literature about the implantation

of cash crops and wage labor generally, typically by foreign firms, and its partial dependence on a dynamic whereby women subsidized the waged labor of men through their household production and subsistence farming. Boserup, Deere, and many others produced an enormously rich and nuanced literature showing the variants of this dynamic.⁴ Far from being unconnected, the subsistence sector and the modern capitalist enterprise were shown to be articulated—but through a gender dynamic that veiled this articulation.

A second phase was the scholarship on the internationalization of manufacturing production and the feminization of the proletariat that came with it (see next chap.).⁵ The key analytic element in this scholarship was that off-shoring manufacturing jobs under pressure of low-cost imports mobilized a disproportionately female workforce in poorer countries which had hitherto largely remained outside the industrial economy. In this regard it is an analysis that also intersected with issues of national economies, such as why women predominate in certain industries, notably garment and electronics assembly, no matter what the level of development of a country.⁶

Together these two analytics have produced an enormous literature, impressive in its detail and its capacity to illuminate.⁷ It is impossible here to do justice to these two bodies of scholarship and their contribution to new frameworks for empirical analysis and theorization. The quality of the empirical studies and theoretical formulations these two bodies of scholarship produced helps us understand how much work we need to do in order to theorize the current phase, which contains both of these two longer-standing dynamics and a whole new one—the latter, the focus of this chapter.

A third phase of scholarship on women and the global economy is emerging from recognition of processes that underline transformations in gendering, in women's subjectives, and in women's notions of membership. These represent many different literatures. Among the richest and most promising is the new feminist scholarship on women immigrants that focuses, for example, on how international migration alters gender patterns and how the formation of transnational households can empower women.⁸ There is also an important new scholarship that focuses on the household as a key analytic category to understanding global economic processes⁹ and on new forms of cross-border solidarity, experiences of membership and

identity formation that represent new subjectivities, including feminist subjectivities.¹⁰

There are many studies that contribute much needed empirical detail, even though not focused on international or cross-border issues, or lacking an international perspective. They range from studies on gendered spaces¹¹ to studies on women and the liberal state.¹² Many studies of the economic conditions of women and men in the current era, of which there are a very large number in all the major social sciences, are essential to advancing my effort here, and I will be referring to some. Finally, particularly useful is the literature that examines the absences in feminist analysis and the differentiations that still need to be developed.¹³

Most of the studies focusing on gendering in contemporary economic and political processes tend to begin with detailed accounts about women, or comparisons between women and men. For me, this inquiry begins with the specification of the strategic dynamics and transformations that mark the current phase. Both approaches are necessary. The position I take is partly predicated on my reading of the contemporary phase of the world economy as one that has been constituted through major transformations and a new set of dynamics that are strategic (i.e., while not accounting for the majority of processes they are regime making). Thus, export-oriented manufacturing is a strategic dynamic, by no means accounting for most manufacturing jobs; gender is a strategic nexus in this development. My approach entails, in a way, constructing "the difference," theoretically and empirically, so as to specify the current period.¹⁴ The purpose is to understand whether there is gendering in these strategic dynamics and transformations, and if so, what a feminist analytics would be. I relate to this inquiry as a mathematical problem, in its certainty of a solution but its lack of self-evidence. It would diminish the theoretical, empirical, and political importance of the question of gendering to assume that we have understood it by noting discrimination in pay for women and the high incidence of gender-typed occupations.

One important methodological question is what are the strategic sites where current processes of globalization can be studied. In export-oriented agriculture it is the nexus between subsistence economies and capitalist enterprise, and in the internationalization of manufacturing production it is the nexus between the dismantling of

an established "labor aristocracy," in major industries with shadow effects on an increasing sector of developed economies and the formation of an offshore proletariat.

And what about today's leading processes of globalization? Among these sites, few are as important as global cities—strategic sites for the valorization of leading components of capital and for the coordination of global economic processes. Global cities are also sites for the incorporation of large numbers of women and immigrants in activities that service the strategic sectors.¹⁵ But it is a mode of incorporation that renders these workers invisible, therewith breaking the nexus between being workers in a leading industry and the opportunity to become—as had been historically the case in industrialized economies—a "labor aristocracy" or its contemporary equivalent.¹⁶ In this sense "women and immigrants" emerge as the systemic equivalent of the offshore proletariat.¹⁷

A second strategic site pivots on the question of sovereignty and its transformation under the impact of globalization, the subject of the third section. International law, a particularly formalized arena where one can capture the impact of this change, has had the nation-state as its main and fundamentally, i.e., foundationally, only subject. It has also been described as basically male.¹⁸ The strategic nexus for my inquiry is the transformation of sovereignty and the openings this has created for women (and other hitherto largely invisible actors) to become visible participants in international relations and subjects of international law. It is no longer simply a matter of the unified state as the exclusive subject of international law and exclusive actor in international relations "representing" its people and thereby rendering them invisible as individuals and as particular collectives.

VALORIZATION AND DEVALORIZATION PROCESSES: A FIRST STEP TOWARD LOCATING GENDERING

A central assumption in much of my work has been that we learn something about power through its absence and by moving through or negotiating the borders and terrains that connect powerlessness to power. Powerlessness is not a silence at the bottom; its absence is present and has consequences.¹⁹ The terms and language of the engagement force particular positions and preempt others.

In the day-to-day work of the leading services complex dominated

by finance, a large share of the jobs involved are low pay and manual, many held by women and immigrants. Although these types of workers and jobs are never represented as part of the global economy, they are in fact part of the infrastructure of jobs involved in running and implementing the global economic system, including such an advanced form of it as international finance.²⁰ The top end of the corporate economy—the corporate towers that project engineering expertise, precision, "techné"—is far easier to mark as necessary for an advanced economic system than are truckers and other industrial service workers, even though these are necessary ingredients.²¹ We see here a dynamic of valorization that has sharply increased the distance between the devalorized and the valorized, indeed overvalored, sectors of the economy.

Immigrant work environments in large cities, often subsumed under the notion of the ethnic economy and the informal economy are rarely recognized as possibly part of the global information economy.²² Much of what we still narrate in the language of immigration and ethnicity is actually a series of processes having to do with: 1) the globalization of economic activity, cultural activity, and of identity formation; and 2) the increasingly marked racialization of labor-market segmentation so that the components of the production process in the advanced global information economy that take place in immigrant work environments are components not recognized as part of that global information economy.²³

What we see at work here is a series of processes that valorize and overvalorize certain types of outputs, workers, firms and sectors, and devalorize others. Does the fact of gendering, for example, the devaluing of female-typed jobs, facilitate these processes of devalorization? We cannot take devalorization as a given: devalorization is a produced outcome.

The forms of devalorization of certain types of workers and work cultures I have referred to here and described elsewhere (see e.g. chapters 7 and 8 here) are partly embedded in the demographic transformations evident in large cities. The growing presence of women, immigrants, and people of color in large cities along with a declining middle class have facilitated the operation of devalorization processes. This is significant insofar as these cities are strategic sites for the materialization of global processes and for the valorization of corporate capital.²⁴

How have these new processes of valorization and devalorization and the inequalities they produce come about? The implantation of global processes and markets in major cities has meant that the internationalized sector of the economy has expanded sharply and has imposed a new set of criteria for valuing or pricing various economic activities and outcomes. This has had devastating effects on large sectors of the urban economy. It is not simply a quantitative transformation; we see here the elements for a new urban regime.²⁵

These tendencies toward polarization assume distinct forms in: 1) the spatial organization of the urban economy; 2) the structures for social reproductions; and 3) the organization of the labor process. In these trends toward multiple forms of polarization lie conditions for the creation of employment-centered urban poverty and marginality. In the remainder of this section I briefly describe some forms of this polarization. These are all subjects I return to in greater detail in chapters 7 and 8.

The ascendance of the specialized services-led economy, particularly the new finance and services complex, engenders what may be regarded as a new economic regime because, although this specialized sector may account for only a fraction of a city's economy, it imposes itself on the entire economy. One of these pressures is toward polarization because of the possibility for superprofits in areas such as finance. This, in turn, contributes to devalorize manufacturing and low-value-added services insofar as these sectors cannot generate the superprofits typical in much financial activity. Low-value-added services and urban-based manufacturing are the sectors where women and immigrants predominate. (See chapter 7 for more detailed occupational and earnings information.)

The super profit-making capacity of many leading industries is embedded in a complex combination of new trends: 1) technologies that make possible the hypermobility of capital on a global scale and the deregulation of multiple markets allowing the implementation of that hypermobility; 2) financial innovations, such as securitization, which create liquid capital and allow it to circulate and make additional profits; and 3) the growing demand for increasingly complex and specialized services in all industries, which contributes to these services' valorization and often overvalorization, as illustrated in the unusually high salary increases beginning in the 1980s for top-level professionals and CEOs.²⁶ Globalization further adds to the complex-

ity of these services, their strategic character, their glamour, and their overvalorization.

The presence of a critical mass of firms with extremely high profit-making capabilities increases the prices of commercial space, industrial services, and other business needs, and thereby makes survival for firms with moderate profit-making capabilities increasingly precarious. And while firms with moderate profits are essential to the operation of the urban economy and for the daily needs of residents, their economic viability is threatened in a situation where finance and specialized services can earn superprofits. High prices and profit levels in the internationalized sector and its ancillary institutions, such as top-of-the-line restaurants and hotels, make it increasingly difficult for other sectors to compete for space and investments. Many of these other sectors have experienced considerable downgrading and/or displacement, for example, the replacement of neighborhood shops tailored to local needs by upscale boutiques and restaurants catering to new high-income urban elites. There are some interesting research questions to pursue here to understand whether this reconfiguration of economic spaces has had differential impacts on women and men, on male- and female-typed work cultures, on male- and female-centered forms of power and empowerment.²⁷ The remainder of this section is a brief discussion of some of these areas for research.

Inequality in the profit-making capabilities of different sectors of the economy has always existed. But what we see happening today takes place on another order of magnitude and is engendering massive distortions in the operations of various markets, from housing to labor. For instance, the polarization among firms and households and in the spatial organization of the economy results in the informalization of a growing array of economic activities in advanced urban economies. When firms with low or modest profit-making capacities experience an ongoing, and even increasing, demand for their goods and services from households and other firms in a context where a significant sector of the economy makes superprofits, they often cannot compete even though there is an effective demand for what they sell. Operating informally is often one of the few ways in which such firms can survive. This operation may entail using spaces not zoned for commercial or manufacturing uses, such as basements in residential areas, or space that is not up to code in terms of health, fire, and other such standards. Similarly, new firms in low-profit industries

entering a strong market for their goods and services may only be able to do so informally. Another option for firms with limited profit-making capabilities is to subcontract part of their work to informal operations. Informalization often reintroduces the community and the household as an important economic space. This question follows: Does the growth of informalization in advanced urban economies reconfigure some types of economic relations between men and women?

More generally, we are seeing the formation of new types of labor-market segmentation. Two characteristics stand out. One is the weakening role of the firm in structuring the employment relation, which leaves more to the market. A second form in this restructuring of the labor market is what could be described as the shift of labor market functions to the household or community. These emerge as sites that should be part of the theorization about particular types of labor market dynamics today.²⁸ Both of these trends contain a correspondence between a devaluing of jobs (from full- to part-time jobs, from jobs offering upward mobility within firms to dead-end jobs, etc.) and a feminization of employment in these jobs. I return to this in chapter 6.

The recomposition of the sources of growth and of profit making entailed by these transformations also contribute to a reorganization of some components of social reproduction or consumption. Although the middle strata still are the majority in the population, the conditions that contributed to their expansion and politico-economic power in the post-war decades—the centrality of mass production and mass consumption in economic growth and profit realization—have been displaced by new sources of growth. Is the “systemic abandonment,” that is, radical economic marginalization, of a growing segment of households—specifically, low-income female-headed households—completely unconnected to this reorganization of consumption and social reproduction? We need research and theorization that examines the possible articulations of these two types of processes, each the subject of separate bodies of scholarship.

The expansion of the high-income workforce in conjunction with the emergence of new cultural forms has led to a process of high-income gentrification that rests, in the last analysis, on the availability of a vast supply of low-wage workers. This has reintroduced—to an extent not seen in a very long time—the whole notion of the “serving classes” in contemporary high-income households. The immigrant

woman serving the white middle-class professional woman has replaced the traditional image of the black female servant serving the white master.

There is, to some extent, a joining of two different dynamics in the condition of women described above. On the one hand, they are constituted as an invisible and disempowered class of workers in the service of the strategic sectors constituting the global economy. This invisibility keeps them from emerging as whatever would be the contemporary equivalent of the “labor aristocracy” of earlier economic organizational forms, when workers’ positions in leading sectors had the effect of empowering them—a dynamic articulating the corporate and the labor sector in a manner radically different from today’s.²⁹ On the other hand, the access to wages and salaries (even if low), the growing feminization of the job supply, and the growing feminization of business opportunities brought about with informalization alter the gender hierarchies in which they find themselves.³⁰

This is particularly striking in the case of immigrant women. There is a large literature showing that immigrant women’s regular wage work and improved access to other public realms have an impact on their gender relations.³¹ Women gain greater personal autonomy and independence while men lose ground.³² Women gain more control over budgeting and other domestic decisions and greater leverage in requesting help from men in domestic chores. Also, their access to public services and other public resources gives them a chance to become incorporated in the mainstream society—they are often the ones in the household who mediate in this process. It is likely that some women benefit more than others from these circumstances; we need more research to establish the impact of class, education, and income on these gendered outcomes.³³

In addition to the relatively improved empowerment of women in the household associated with waged employment, there is a second important outcome—their greater participation in the public sphere and their possible emergence as public actors. There are two arenas where immigrant women are active: institutions for public and private assistance and the immigrant/ethnic community. The incorporation of women in the migration process strengthens the settlement likelihood and contributes to greater immigrant participation in their communities and vis-à-vis the state.³⁴ For instance, Hondagneu-Sotelo found that immigrant women come to assume more active

public and social roles which reinforces their status in the household and the settlement process.⁵⁵ Women are more active in community building and community activism, and they are positioned differently from men regarding the broader economy and the state. They are the ones that are likely to have to handle the legal vulnerability of their families in the process of seeking public and social services for their families.⁵⁶ This greater participation by women suggests the possibility that they may emerge as more forceful and visible actors and may make their role in the labor market more visible as well.⁵⁷

The demographic transition in large cities toward the increasing weight of women generally and immigrant men and women has absorbed a good part of these multiple forms of polarization. This demographic embeddedness has broken the nexus between 1) the condition of being workers in leading sectors of the economy, and 2) constituting a "labor aristocracy" as had been the case historically. And it has broken this nexus right at the center of the most advanced economies rather than through the offshoring of these jobs.

THE UNBUNDLING OF SOVEREIGNTY: IMPLICATIONS FOR A FEMINIST ANALYSIS

Economic globalization represents a major transformation, not only in the territorial organization of economic activity, but also in the organization of political power, notably sovereignty as we have known it. Today the major dynamics at work in the global economy have the capacity to undo the intersection of sovereignty and territory embedded in the modern state and the modern inter-state system.⁵⁸ As with the discussion earlier, the main concern in this section is to capture strategic instantiations, in this case, the transformation of political power.

Along with the unbundling of territoriality, represented in the discussion earlier by the ascendance of global cities, there is an unbundling of sovereignty. We are seeing the relocation of various components of sovereignty onto supranational, nongovernmental, or private institutions. This brings with it a potential strengthening of alternative subjects of international law and actors in international relations, for example, the growing voice of nongovernmental organizations and minorities in international fora.⁵⁹ It also carries implications for conceptions of membership.⁴⁰ Both can facilitate the

ascendance of women, whether individuals or collectives, as subjects of international law and the formation of cross-border feminist solidarities. Notwithstanding these implications for women, most of the critical analyses of sovereignty have not had a particularly feminist perspective,⁴¹ though there is the beginning of a feminist reading of the state in international relations.⁴²

There is an emerging feminist scholarship on international law, but it is not focused on the question of sovereignty and its transformation. Central concerns in this feminist critique are the notion that an ethic of care should prevail among states⁴³ and that the principle of nonintervention in the internal affairs of states leaves women vulnerable to abuse and injustice.⁴⁴ Each of these represents a transfer to the relations among states of the critique of liberal democratic norms prescribing, respectively, the relation between the individual and the state and the distinction between private and public spheres.⁴⁵ In the classical liberal tradition, the state does not intervene in home and family.⁴⁶ Similarly, according to international law, States do not intervene in the internal affairs of other states. One feminist response is that the state should intervene in the home and in the internal affairs of other states if abuse is occurring.⁴⁷ "Feminist approaches to international law may be understood as seeking to personalize and personify its normative constructs."⁴⁸ Elshtain's sovereign state/sovereign self—which has the effect of personifying the State—shows us that international law is male.⁴⁹

The particular form that the feminist critique of international law is taking has the effect of avoiding the question of sovereignty, and the implications of its unbundling for the emergence of new actors in cross-border relations and as subjects of international law. In a critical review of the feminist scholarship on international law, Knop notes that personifying the state has the effect of denying the individual and collective identity of women within a state and across states.⁵⁰ Women are confined to the realm of the given state and rendered invisible from the perspective of international law insofar as they are subsumed under the state's sovereignty. Her central argument is that we need both a critical examination of sovereignty and of the assumption that it pertains exclusively to the state.⁵¹

The impact of globalization on sovereignty has been significant in creating operational and conceptual openings for other actors and subjects.⁵² Feminist readings that personify the state leave sover-

eighty unexamined; the state remains the exclusive subject for international law. This is not to deny the importance of the types of critiques evident in this feminist scholarship. But when it comes to a critique of international law, leaving out the issue of sovereignty and taking its confinement to the nation-state as a given represents a fall-back on statism—the legitimacy of the state as the subject of international law regardless of whether or not it is representative of a possibly not so unitary people's will, or more fundamentally, rigorous in its adherence to the precepts of democratic representation which can account for differences.⁵³

Why does it matter that we develop a feminist critique of sovereignty today in the context of globalization? It matters because globalization is creating new operational and formal openings for the participation of nonstate actors and subjects. Once the sovereign state is no longer viewed as the exclusive representative of its population in the international arena, women and other nonstate actors can gain more representation in international law; contribute to the making of international law; and give new meaning to older forms of international participation, such as women's long-standing work in international peace efforts.⁵⁴ Beyond these issues of participation and representation is a question about the implications of feminist theory for alternative conceptions of sovereignty.⁵⁵ It seems to me that at this point a feminist theory of the state would have to factor in the major transformations of the state brought about by globalization, most particularly, what I think of as the decentralization of sovereignty onto nonstate actors and the corresponding formation of other sites for normativity beyond that embedded in the nation-state.

Here I will confine myself to a brief examination of the transformation of sovereignty under the impact of globalization. This effort parallels that of the first part of this paper—to expand the analytic terrain within which we conceptualize key properties, in this case sovereignty. I see this as one step in the broader agenda of specifying a feminist analytics for understanding the global economy today. But the major task clearly lies ahead and is collective and cross-border in character.

Two kinds of developments in this new transnational, social, and economic order matter for my discussion of sovereignty. One is the emergence of what I will call new sites of normativity, and the other, at a more operational level, is the formation of new transnational

legal regimes and regulatory institutions that are either private or supranational and have taken over functions until recently located in governmental institutions.⁵⁶ I argue that two institutional arenas have emerged as new sites for normativity alongside the more traditional normative order represented by the nation-state: the global capital market and the international human rights regime. The global capital market now concentrates sufficient power *and legitimacy* to command accountability from governments regarding their economic policies, as was illustrated by the recent crisis in Mexico. So does the international human rights regime, as is particularly evident in matters involving immigration and refugees, where courts have invoked international human rights instruments even when this overrides decisions taken by their national legislatures.

What matters for the purpose of the discussion here is that both contain a *de facto* transnationalizing of state policy which in turn creates practical and formal openings for the participation of nonstate actors. This represents a transformation of sovereignty as we have known and formalized it.⁵⁷ I will confine myself to a brief discussion of sovereignty and the impact of, respectively, the new international human rights regime that came into its own in the 1970s, and the privatization of regulatory regimes for global business.

International Human Rights and State Sovereignty

International human rights, while rooted in the founding documents of nation-states, are today a force that can undermine the exclusive authority of the state over its nationals and thereby contribute to transform the interstate system and international legal order. Membership in nation-states ceases to be the only ground for the realization of rights. All residents, whether citizens or not, can claim their human rights.⁵⁸ Human rights begin to impinge on the principle of nation-based citizenship and the boundaries of the nation.

In the early twentieth century there were several legal instruments that promoted human rights and made the individual an object of international law. But it was not until after the second world war that we see an elaboration and formalization of such rights.⁵⁹ The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights legislated much of what the Universal Declaration called for.⁶⁰ In 1976, a Protocol to the

Covenant on Civil and Political Rights was opened for ratification; it enables private parties to file complaints to the U.N. Human Rights Committee if a state that has ratified the protocol is involved. There is a growing number of other U.N. human rights agreements.⁶¹

Some of the human rights provisions that go the farthest in supporting needs strongly associated with the current condition of women can be seen as marginalized within the human rights regime. Barbara Stark finds that of the two instruments that constitute the International Bill of Rights, it is the International Covenant on Economic, Social, and Cultural Rights that could make the most difference for women. It is also "the marginalized half" of the international human rights law.⁶²

From an emphasis on the sovereignty of the people of a nation and the right to self-determination, we see a shift in emphasis to the rights of individuals regardless of nationality. Jacobson (1996) and others have argued that human rights codes can erode the legitimacy of the state if that state fails to respect such human rights. Self-determination is no longer enough to legitimate a state; respect for international human rights codes is also a factor. It is not clear to what extent the pertinent organizations and instruments are likely to be implemented. One possibility is that international law today basically makes the individual and nonstate groups subsidiary to the laws between states. There is a growing body of cases signaling that individuals and nonstate groups are making claims on the state, particularly in Western Europe, where the human rights regime is most developed.⁶³

In both Western Europe and the United States it is interesting to note that immigrants and refugees have been key claimants, and in that sense, mechanisms for the expansion of the human rights regime. Several court cases show how undocumented immigration creates legal voids which are increasingly filled by invoking human rights covenants.⁶⁴ In many of these cases, we can see the individual or nonstate actors bringing the claims based on international human rights codes as expanding international law. The state, in this case the judiciary, "mediates between these agents and the international legal order."⁶⁵ Courts have emerged as central institutions for a whole series of changes.⁶⁶

The fact that individuals and nonstate actors can make claims on states under the rule of law based on international human rights codes, signals a development that goes beyond the expansion of hu-

man rights within the framework of nation-states. It can redefine notions of nationality and membership. Under human rights regimes states must increasingly take account of *persons qua persons*, rather than *qua citizens*. The individual is now an object of law and a site for rights regardless of whether a citizen or an alien, a man or a woman where there are gendered legal regimes.⁶⁷

The as yet small but growing ability of nongovernmental organizations and individuals to make claims on the basis of international human rights instruments has implications beyond the boundaries of individual states. It affects the configuration of the international order and strengthens the international civil arena. The concept of nationality is being partly displaced from a principle that reinforces state sovereignty and self-determination (through the state's right/power to define its nationals), to a concept which emphasizes that the state is accountable to all its residents on the basis of international human rights law.⁶⁸ The individual emerges as an object of international law and institutions. International law still protects state sovereignty and has in the state its main subject; but it is no longer the case that the state is the only such subject.

The Privatizing of Transnational Legal Regimes

The particular forms of legal innovation that have been produced, and within which much of globalization is encased and framed, have had distinct impacts on the sovereignty of the state. Many of these legal innovations and changes are often summarized under the notion of "deregulation" and taken as somewhat of a given—though not by legal scholars.⁶⁹ In much social science, deregulation is another name for the declining significance of the state. There is a more specific process contained in these legal changes, one that along with the reconfiguration of territory may signal a more fundamental transformation.⁷⁰

Firms operating transnationally need to ensure the functions traditionally exercised by the state in the national realm of the economy, such as guaranteeing property rights and contracts.⁷¹ Insofar as economic globalization extends the economy beyond the boundaries of the nation-state, and hence its sovereignty, this guarantee would appear to be threatened. But in fact globalization has been accompanied by the creation of new legal regimes and legal practices, and the ex-

pansion and renovation of some older forms that bypass national legal systems. Globalization and governmental deregulation have not meant the absence of regulatory regimes and institutions for the governance of international economic relations. Among the most important ones in the private sector today are international commercial arbitration, and the variety of institutions which fulfill rating and advisory functions that have become essential for the operation of the global economy.

International commercial arbitration, which aims at by-passing national courts, is today the most important mechanism for solving cross-border business disputes. Dezalay and Garth describe it as a delocalized and decentralized market for the administration of international commercial disputes, connected by more or less powerful institutions and individuals who are both competitive and complementary.⁷² It is in this regard far from a unitary system of justice, "organized perhaps around one great *lex mercatoria* – that might have been envisioned by some of the pioneering idealists of law."⁷³

The World Trade Organization has the authority to override local and national authority if there is a violation of the terms of the agreement, and hence can discipline sovereign states. International commercial arbitration is basically a private justice system, and credit-rating agencies are private gate-keeping systems. We are also seeing the formation of transnational legal regimes and their penetration into national systems hitherto closed.⁷⁴ Further, national legal systems are becoming more internationalized in some of the major developed economies. Some of the old divisions between the national and the global are becoming weaker, and to some extent, neutralized. Along with others, these various institutions have emerged as important governance mechanisms whose authority is not centered in the state. They contribute to the maintenance of order at the top of the economic system.

These and kindred transnational institutions and regimes raise questions about the relation between state sovereignty and the governance of global economic processes. Does the ascendance of such institutions and regimes entail a decline in state sovereignty? We are seeing a relocation of authority that has transformed the capacities of governments and can be thought of as an example of what Rosenau has described as governance without government.⁷⁵ In many ways, the state is involved in this emerging transnational governance sys-

tem.⁷⁶ But it is a state that has itself undergone transformation and participated in legitimating a new doctrine about the role of the state in the economy.⁷⁷ Central to this new doctrine is a growing consensus among states to further the growth and strength of the global economy.⁷⁸

An important question running through these different developments is whether the new transnational regimes and institutions are creating systems that strengthen the claims of certain actors (corporations, the global capital market, the large multinational legal firms) and correspondingly weaken the position of smaller players and of states.⁷⁹ Global capital has made claims on nation-states and these have responded through the production of new forms of legality. The new geography of global economic processes, the strategic territories for economic globalization, had to be produced, both in terms of the practices of corporate actors and the requisite infrastructure, and in terms of the work of the state in producing or legitimizing new legal regimes.⁸⁰

There is a larger theoretico-political question underlying some of these issues that has to do with which actors gain the legitimacy for governance of the global economy and the legitimacy to take over rules and authorities hitherto encased in the nation-state. It also raises a question about the condition of international public law. Do the new systems for governance that are emerging, and the confinement of the role of nation-states in the global economy to furthering deregulations, markets, and privatization, indicate a decline of international public law?⁸¹

The ascendance of an international human rights regime and of a large variety of nonstate actors in the international arena signals the expansion of an international civil society.⁸² This is clearly a contested space, particularly when we consider the logic of the capital market – profitability at all costs – against that of the human rights regime. But it does represent a space where women can gain visibility as individuals and as collective actors, and come out of the invisibility of aggregate membership in a nation-state exclusively represented by the sovereign. The practices and claims enacted by nonstate actors in this international space may well contribute to creating international law, as is most clearly the case with both the international human rights regime and the demands for rights made by firms and markets with global operations.⁸³ For women, this means at least

partly working outside the state, through nonstate groups and networks. The needs and agendas of women are not necessarily defined exclusively by state borders.⁸⁴ We are seeing the formation of cross-border solidarities and notions of membership rooted in gender, sexuality, and feminism, as well as in questions of class and country status, i.e., First versus Third World, which cut across all of these membership notions.⁸⁵

CONCLUSION

There is not much purpose in writing a conclusion since the effort here was not to gain closure but to open up an analytic field within which to understand the question of gendering in the global economy today. I selected for examination two key features of the organization of economic and political power: exclusive territoriality and sovereignty. I operationalized these in terms of two strategic instantiations which capture the impact of globalization. These are the global city, as emblematic of the incipient unbundling of the exclusive territoriality of the nation-state, and international law (including customary law and certain international human rights codes), as emblematic of the emergence of subjects for international law other than the nation-state. The purpose was to open up an analytic terrain for a feminist inquiry of issues that are highly abstract—whether it is international finance or international public law—and have remained inhospitable to feminist examination.

NOTES

- 1 This chapter was partially prepared while the author was a Fellow at the Center for Advanced Study in the Behavioral Sciences. The author would like to express her gratitude for financial support provided by The National Science Foundation, Grant # SBR-9022192.
- 2 The notion of a global economy is increasingly used to distinguish the particular phase of the world economy that began to emerge in the 1970s. It is characterized by a rapid growth of transactions and institutions that are outside the framework of interstate relations. See generally James H. Mittelman, ed., *Globalization: Critical Reflections* (1996). For a broader historical perspective, see generally Giovanni Arrighi, *The Long Twentieth Century: Money, Power, and the Origins of our Times* (1994); Eric Hobsbawm, *Nations and Nationalism Since 1780, Myth, Reality* (1991).
- 3 By unbundling I do not mean dissolution, but rather a form of disarticulation. For a more detailed discussion, see Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization* (1996) [hereinafter *Losing Control?*].

- 4 See generally E. Boserup, *Woman's Role in Economic Development* (1970). C. D. Deere, "Rural Women's Subsistence Production in the Capitalist Periphery," 8, 9 *Review of Radical Political Economy* (1976).
- 5 See, e.g., Maria Patricia Fernandez-Kelly, *For We Are Sold, I and My People: Women and Industry in Mexico's Frontier* (1982); Helen I. Safa, *The Myth of the Male Breadwinner: Women and Industrialization in the Caribbean* (1995); Saskia Sassen, *The Mobility of Labor and Capital: A Study in International Investment and Labor Flow* (1988); Linda Y. C. Lim, "Women Workers in Multinational Corporations: The Case of the Electronics Industry in Malaysia and Singapore," *Transnational Enterprises: Their Impact on Third World Societies and Cultures* (Krishna Kumar, ed., 1980).
- 6 See generally Ruth Milkman, *Gender at Work* (1987); Lourdes Beneria and Catherine Stimpson, eds., *Women, Households and the Economy* (1987).
- 7 For some recent collections and lengthy bibliographies, see generally, Irene Tinker, ed., *Persistent Inequalities: Women and World Development* (1990); June Nash and Helen Safa, eds., *Women and Change in Latin America* (1986); Christine E. Bose & Edna Acosta-Belén, eds., *Women in the Latin American Development Process* (1995); Kathryn Ward, ed., *Women Workers and Global Restructuring* (1990).
- 8 See, e.g., Sherri Grasmuck and Patricia R. Pessar, *Between Two Islands: Dominican International Migration* (1991); Pierrette Hondagneu-Sotelo, *Gendered Transitions: Mexican Experiences of Immigration* (1994); Monica Boyd, "Family and Personal Networks in International Migration: Recent Developments and New Agendas," 23 *Int'l Migration Rev.*; Mary Garcia Castro, "Work Versus Life: Colombian Women in New York," in *Women and Change in Latin America*, supra note 7; Mirjana Morokvasic, "Birds of Passage Are Also Women," 18 *Int'l Migration Rev.* (special issue on women immigrants).
- 9 See, e.g., Joan Smith & Immanuel Wallerstein, eds., *Creating and Transforming Households: The Constraints of the World-Economy* (1992).
- 10 See, e.g., Linda Basch et al., *Nations Unbound: Transnational Projects, Postcolonial Predicaments, and Deteriorated Nation-States* (1994); Yasemin Nuhoglu Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (1994); Zillah Eisenstein, "Stop Stomping on the Rest of Us: Retrieving Publicness from the Privatization of the Globe," 4 *Ind. J. Global Leg. Stud.* (1996). But see Aiwha Ong, "Strategic Sisterhood or Sisters in Solidarity? Questions of Communitarianism and Citizenship in Asia," 4 *Ind. J. Global Leg. Stud.* (1996).
- 11 See e.g., Daphne Spain, *Gendered Spaces* (1992); Corrine Stoewsand, *Women Building Cities* (unpublished Ph.D. diss., Columbia University, 1996).
- 12 See e.g., Catharine A. MacKinnon, *Toward a Feminist Theory of State* (1989); Jean Bethke Elshstain, "Sovereign God, Sovereign State, Sovereign Self," 66 *Notre Dame L. Rev.* (1991).
- 13 See e.g., Martha Minow, *Making All the Difference: Inclusion, Exclusion, and American Law* (1990); Elizabeth Spelman, *Inessential Woman: Problems of Exclusion in Feminist Thought* (1988); Elshstain, supra note 12; Joan Williams, "Restructuring Work and Family Entitlements Around Family Values," 19 *Harv. J. L. & Pub. Pol'y* (1996).
- 14 I have always rather explicitly positioned myself as someone who wants to construct the difference. I do not deny the existence of many continuities, but my effort has been to understand the strategic discontinuities. This is clearly a partial account, and it must be read alongside many other types of accounts. For an example of scholarly efforts to capture differences, see the work by historians to conceptualize "global history." See e.g., Bruce Mazlish and Ralph Buultjens, eds., *Conceptualizing Global History* (1995). For a more theorized effort to re-read an earlier period characterized by massive shifts, see Nathaniel Berman, "Economic Consequences, Na-

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- 10 fionalist Passions: Keynes, Crisis, Culture, and Policy," 10 *Am. U.J. Int'l L. & Pol'y* (1995). See also Rosemary J. Coombe, "The Cultural Life of Things: Anthropological Approaches to Law and Society in Conditions of Globalization," 10 *Am. U.J. Int'l L. & Pol'y* (1995).
- 15 Today's global cities are in part the sites of postcolonialism and contain conditions for the formation of a postcolonialist discourse. See generally Anthony D. King, *Urbanism, Colonialism, and the World-Economy: Cultural and Spatial Foundations of the World Urban System* (1990); Stuart Hall, *The Local and the Global: Globalization and Ethnicity*, in *Culture, Globalization and the World-System: Contemporary Conditions for the Representation of Identity*, edited by Anthony D. King (1991). An interesting question concerns the nature of internationalization today in ex-colonial cities. King's analysis about the distinctive historical and unequal conditions in which the notion of the "international" was constructed is extremely important. During the time of empire, some of the major old colonial centers were far more internationalized than the metropolitan centers. Internationalization as used today is assumed to be rooted in the experience of the center. This brings up a parallel contemporary blindspot well captured in Hall's observation that contemporary post-colonial and post-imperialist critiques have emerged in the former centers of empires and are silent about a range of conditions evident today in ex-colonial cities or countries. Hall, *id.* Similarly, the idea that the international migrations now directed largely to the center from former colonial territories in the case of Europe, and neo-colonial territories in the case of the United States and Japan, might be the correlate of the internationalization of capital that began with colonialism, is simply not part of the mainstream interpretation of that past and the present. See, generally, Sassen *supra* note 5.
- 16 See Professor Gracia Clark's comments on how in my account "women and immigrants" comes to replace "women and children." Gracia Clark, "Implications of Globalization for Feminist Work," 4 *Ind. J. Global Legal Stud.* (1996). It is, in my reading, a new topos which replaces the Fordist-family wage topos of women and children. I return to this subject in the next two sections.
- 17 See, generally, Sassen, *supra* note 5.
- 18 See, generally, Elshstain, *supra* note 12; Mackinnon, *supra* note 12.
- 19 For me as a political economist, addressing these issues has meant working in several systems of representation and constructing spaces of intersection. There are analytic moments when two systems of representation intersect. Such analytic moments are easily experienced as spaces of silence, of absence. One challenge is to see what happens in those spaces, what operations (analytic, of power, of meaning) take place there. One version of these spaces of intersection is what I have called analytic borderlands. Why borderlands? They are spaces that are constituted in terms of discontinuities; in them, discontinuities are given a terrain rather than reduced to a dividing line. Much of my work on economic globalization and cities has focused on these discontinuities and has sought to reconstitute them analytically as borderlands rather than dividing lines. This produces a terrain within which these discontinuities can be reconstituted in terms of economic operations whose properties are not merely a function of the spaces on each side (i.e., a reduction to the condition of dividing line), but also, and most centrally, of the discontinuity itself, the argument being that discontinuities are an integral part of the economic system.
- 20 A methodological tool I find useful for this type of examination is what I call circuits for the distribution and installation of economic operations. These circuits allow me to follow economic activities into terrains that escape the increasingly narrow geography of mainstream representations of "the advanced economy" and to negotiate the crossing of socio-culturally discontinuous spaces.
- 21 This is illustrated by the following event. When the acute stock market crisis happened in 1987 after years of enormous growth, there were numerous press reports about the sudden and massive unemployment crisis among high-income professionals on Wall Street. The other unemployment crises on Wall Street, affecting secretaries and blue-collar workers, were never noticed nor reported. And yet, the stock market crash created a very concentrated unemployment crisis, for instance, in the Dominican immigrant community in northern Manhattan where many of the Wall Street cleaners live.
- 22 For a critical account of these issues see Anthony D. King, ed., *Representing the City: Ethnicity, Capital and Culture in the 21st-Century Metropolis* (1996).
- 23 More generally immigration has not been connected to other international processes in the research literature. Among exceptions see, e.g., Sarah J. Mahler, *American Dreaming: Immigrant Life on the Margins* (1995); *II Journal für Entwicklungspolitik, Schwerpunkt: Migration* (1995) issue on migration; Douglas S. Massey et al., "Theories of International Migration: A Review and Appraisal," 19 *Population & Dev. Rev.* 431 (1993). Hall describes the post-war influx of people from the commonwealth into Britain and how England and Englishness were so present in his native Jamaica as to make people feel that London was the capital where they were all headed to sooner or later (Hall, *supra* note 15). This way of narrating the migration events of the post-war era captures the ongoing weight of colonialism and postcolonial forms of empire on major processes of globalization today, and specifically those binding emigration and immigration countries. The major immigration countries are not innocent bystanders; the specific genesis and contents of their responsibility will vary from case to case and from period to period.
- 24 On this specific issue see Introduction and chap. 10 here. See generally Saskia Sassen, *The Informal Economy: Between New Developments and Old Regulations* (chap. 8 here), which explains a parallel dynamic—the combination of necessary work and devalorization—in the case of the growth of informalization in advanced urban economies.
- 25 See generally Knox and Taylor (eds), *World Cities in a World-System*; M. Frost & Nigel Spence, "Global City Characteristics and Central London's Employment," 30 *Urb. Stud.* (1993); *Le Debat* special issue entitled "Le Nouveau Paris" summer 1994.
- 26 The high profit-making capability of the new growth sectors also rests partly on speculative activity. The extent of this dependence on speculation can be seen in the crisis of the early 1990s that followed the unusually high profits in finance and real estate in the 1980s. The real estate and financial crisis, however, seems to have left the basic dynamic of the sector untouched. The crisis can thus be seen as an adjustment to more reasonable, i.e., less speculative profit levels. The overall dynamic of polarization in profit levels in the urban economy remains in place, as do the "distortions" in many markets.
- 27 See, e.g., Spain, *supra* note 11; Leonie Sandercock & Ann Forsyth, "A Gender Agenda: New Directions for Planning Theory" 58 *J. Am. Plan. Ass'n* 49 (1992); Alma H. Young & Jyaphia Christos-Rodgers, "Resisting Racially Gendered Space: The Women of the St. Thomas Resident Council, New Orleans," in 5 *Comparative Urban and Community Research: Marginal Spaces*, edited by Michael Peter Smith (1995); see also Roger Waldinger & Greta Gilbertson, "Immigrant's Progress: Ethnic & Gender Differences Among U.S. Immigrants in the 1980s," 37 *Soc. Persp.* (1994) (finding that among immigrants with a high level of education, immigrant men did significantly better in the labor market than their co-national women with similar levels of education).
- 28 See generally Saskia Sassen, "Immigration and Local Labor Markets," in *The Economic Sociology of Immigration*, edited by Alejandro Portes (1995).
- 29 See generally Sassen, *supra* note 5 (showing how this concept worked in the United States and in the case of the offshoring of leading sectors such as electronics).

- 30 See generally Heidi Hartmann, "Changes in Women's Economic and Family Roles in Post-World War II United States," in *Women, Households and the Economy*, *supra* note 6 at 33; Alice Kessler-Harris & Karen Brodtkin Sacks, "The Demise of Domesticity in America," in *Women, Households and the Economy*, *supra* note 6 at 65.
- 31 See e.g., Grasmuck & Pessar, *supra* note 8; Hondagneu-Sotelo, *supra* note 8; Louise Lamphere, from Working Daughters to Working Mothers: Immigrant Women in a New England Community (1987); Boyd, *supra* note 8; Castro, *supra* note 8; Nancy Foner, "Sex Roles and Sensibilities: Jamaican Women in New York and London," in *International Migration: The Female Experience*, edited by Rita James Simon and Caroline B. Brettell (1986). But see e.g., Fernandez-Kelly, *supra* note 5; Yolanda Prieto, "Cuban Women in New Jersey: Gender Relations and Change," in *Seeking Common Ground: Multidisciplinary Studies of Immigrant Women in the United States*, edited by Donna Gabaccia (1992).
- 32 See generally *Women, Households and the Economy*, *supra* note 6; Hartmann, *supra* note 30; Kessler-Harris & Sacks, *supra* note 30.
- 33 See generally Grasmuck & Pessar, *supra* note 8 finding that Dominican women wanted to settle in New York precisely because of these gains, while men wanted to return. They found women spending large shares of earnings on expensive durable consumer goods such as appliances and home furnishings which served to root the family securely in the United States and deplete the funds needed for organizing a successful return, while men preferred to spend as little as possible to save for the return. *id.* Castro had similar results in her study on Colombian women in New York City. Castro, *supra* note 8.
- 34 See generally Eugenia Georges, *The Making of a Transnational Community: Migration, Development, and Cultural Change in the Dominican Republic* (1990); Castro, *supra* note 8.
- 35 See generally Hondagneu-Sotelo, *supra* note 8; Nazli Kibria, *Family Tightrope: The Changing Lives of Vietnamese Americans* (1993).
- 36 See generally Hondagneu-Sotelo, *supra* note 8; Mahler, *supra* note 23; Ida Susser, *Norman Street: Poverty and Politics in An Urban Neighborhood* (1982).
- 37 Scholarship on immigrant women contributes to the broader agenda for feminist scholarship aimed at recognizing differences among women—in this case, ethnic-, racial-, and nationality-centered differences between men and women and among women generally. See, e.g., Patricia Pessar, "On the Homefront and in the Workplace: Integrating Immigrant Women into Feminist Discourse," 68 *Anthropological Q.* (1995).
- 38 There is an enormous literature that is of direct and indirect pertinence here. It is impossible to do justice to the variety of foci and perspectives here. See, e.g., Judith Goldstein & Robert O. Keohane, eds., *Ideas and Foreign Policy: Beliefs, Institutions and Political Change* (1995) (on the impact of the international human rights regime on sovereignty); *Losing Control?*, *supra* note 2 (on general questions about the state and international/cross-border processes); Jeswald W. Salacuse, *Making Global Deals: Negotiating in the International Marketplace* (1991) (on more specific regulatory and legal issues, and representing very different perspectives); Kenneth W. Abbott, "GATT as a Public Institution: The Uruguay Round and Beyond," 18 *Brook. J. Int'l L.* 31 (1992); Gerald Aksen, "Arbitration and Other Means of Dispute Settlement," in *International Joint Ventures: A Practical Approach to Working with Foreign Investors in the U.S. and Abroad*, edited by David N. Goldsweig & Roger H. Cummings (2d ed. 1990); Yves Dezalay & Bryant Garth, "Merchants of Law as Moral Entrepreneurs: Constructing International Justice from the Competition for Transnational Business Disputes," 29 *L. & Soc'y Rev.* (1995); Myres S. McDougal & W. Michael Reisman, "International Law in Policy-Oriented Perspectives," in *The Structure and Process of International Law*, edited by R. St. J. MacDonald and Douglas M. Johnston (1985); Joel R. Paul, "Free Trade, Regulatory Competition and the Autonomous Market

- fallacy," 1 *Colum. J. Eur. L.* 29 (1995); James N. Rosenau, "Governance, Order, and Change in World Politics," in *Governance Without Government: Order and Change in World Politics*, edited by James N. Rosenau and Ernst-Otto Czempiel (1992); John Gerard Ruggie, "Territoriality and Beyond: Problematizing Modernity in International Relations" 47 *Int'l Org.* (1993); Kathryn Sikkink, "Human Rights, Principled Issue-Networks, and Sovereignty in Latin America" 47 *Int'l Org.* (1993); Joel P. Trachtman, "International Regulatory Competition, Externalization, and Jurisdiction" 54 *Harv. Int'l L. J.* (1993); David M. Trubek et al., *Global Restructuring and the Law: The Internationalization of Legal Fields and Creation of Transnational Arenas* (University of Wisconsin Global Studies Research Program Working Paper Series on the Political Economy of Legal Change No. 1, 1993); Friedrich Kratochwil, "Of Systems, Boundaries and Territoriality: An Inquiry into the Formation of the State System," *World Pol.*, Oct. 1986. I discuss many of these in my 1996 book, *Losing Control?*, *supra* note 3.
- 39 See generally Louis Henkin, *The Age of Rights* (1990); Soysal, *supra* note 10; Dr. Erica-Irene A. Daes, "Equality of Indigenous Peoples Under the Auspices of the United Nations—Draft Declaration on the Rights of Indigenous Peoples," 7 *St. Thomas L. Rev.* (1995); David Kennedy, "Some Reflections on The Role of Sovereignty in the New International Order," in *State Sovereignty: The Challenge of A Changing World: New Approaches and Thinking on International Law* (1992) (Proceedings of the 21st Annual Conference of the Canadian Council on International Law, Ottawa); Karen Knop, "The Righting of Recognition: Recognition of States in Eastern Europe and the Soviet Union," in *State Sovereignty: The Challenge of a Changing World: New Approaches and Thinking on International Law*, *supra*.
- 40 See generally Soysal, *supra* note 10; Rainer Baubock, *Transnational Citizenship: Membership and Rights in International Migration* (1994).
- 41 See, e.g., Thomas M. Franck, "The Emerging Right to Democratic Governance," 86 *Am. J. of Int'l L.* (1992); McDougal & Reisman, *supra* note 38; Rosenau, *supra* note 38; Ruggie, *supra* note 38.
- 42 See, e.g., V. Spike Peterson, ed., *Gendered States: Feminist (Re)Visions of International Relations Theory* (1992); Dorinda G. Dallmeyer, ed., *Reconceiving Reality: Women and International Law*, (American Society of International Law Series, Studies in Transnational Legal Policy No. 25, 1993), [hereinafter *Reconceiving Reality*].
- 43 See, e.g., Williams, *supra* note 15.
- 44 See, e.g., Hilary Charlesworth, "The Public/Private Distinction and the Right to Development in International Law," 12 *Austl. Y.B. Int'l L.* (1992); Elshtain, *supra* note 12; Karen Engle, "After the Collapse of the Public/Private Distinction: Strategizing Women's Rights," in *Reconceiving Reality*, *supra* note 42.
- 45 See generally Karen Knop, "Re/Statements: Feminism and State Sovereignty in International Law," 3 *Transnat'l L. & Contmp. Probs.* (1993).
- 46 See generally Carole Pateman, "Feminist Critiques of the Public/Private Dichotomy," in *Public and Private in Social Life*, edited by S. I. Benn and G. F. Gaus (1985); Williams, *supra* note 15.
- 47 See generally Charlesworth, *supra* note 44; Christine Chinkin, "A Gendered Perspective to the International Use of Force," 12 *Aust'l Y. B. Int'l L.* (1992); Elshtain, *supra* note 12; Judith G. Gardan, "The Law of Armed Conflict: A Feminist Perspective," in *Human Rights in the Twenty-First Century: A Global Challenge* edited by Kathleen E. Mahoney and Paul Mahoney (1993). The notion is that states should intervene in the private sphere because women often are at risk in homes; extending this notion to the relations among states entails a call for greater mutual responsibilities among states, as is illustrated by the advantages of cross-border collaboration in the environmental field. For radical feminists, the dissolution of borders between the public

- and the private is not necessarily desirable insofar as any kind of intervention/penetration is a threat to women.
- 48 Knop, *supra* note 45 at p. 283: Knop finds the analogy between individual and state analytically restricting. It may simply lead the emerging feminist international law scholarship to transport the feminist debate on the nature of the self and the relationship to others *onto* the level of the state. Further, it can easily treat the state as a unified entity.
- 49 See generally Elshtain, *supra* note 12.
- 50 See generally Knop, *supra* note 45.
- 51 See generally *id.*, Elshtain, *supra* note 12 (noting that gender is not part of many recent critical treatments of sovereignty).
- 52 See generally *Losing Control*, *supra* note 3.
- 53 See, e.g., Franck, *supra* note 41.
- 54 See, e.g., *Gendered States*, *supra* note 42 (presenting feminist scholarship concerned with equality for women in the participation of international law making and implementation). This focus still entails working through the state, although it may incorporate the notion, developed in the national context, that equality means taking account of the specific needs of women. See generally *Minow*, *supra* note 13.
- 55 According to several feminist scholars, there is today no feminist theory of the state. See, e.g., Knop, *supra* note 45; Denise G. Réaume, "The Social Construction of Women and the Possibility of Change: Unmodified Feminism Revisited," 5 *Canadian J. Women & L.* (1992) (reviewing Catherine A. MacKinnon, *Toward a Feminist Theory of the State* (1989)). In her critique, Réaume finds that MacKinnon's text does not contain such a theory notwithstanding its title. See generally *id.*
- 56 See generally *Losing Control*, *supra* note 3.
- 57 The complicating twist, which I examine in my 1996 book, is that both the global capital market and the human rights regime need the state for the enforcement of, respectively, the global rights of capital—guarantees of contract and property—and the human rights of any person regardless of nationality and legal status. See generally *Losing Control*, *supra* note 3.
- 58 David Jacobson, *Rights Across Borders: Immigration and the Decline of Citizenship* (1996), 9; see generally W. Michael Reisman, "Sovereignty and Human Rights in Contemporary International Law," 84 *Am. J. Int'l L.* (1990).
- 59 The covenants and conventions that guarantee human rights today are derived from the Universal Declaration of Human Rights adopted by the United Nations in 1948. See *Universal Declaration of Human Rights*, G. A. Res. 217 (III), U.N. Doc. A810 (1948). The Universal Declaration is not an international treaty, and thus does not have the legally binding character of treaties. But many view the Declaration to have the status of customary international law—an international and general practice that is accepted and observed as law—because it is so often referred to.
- 60 See *International Covenant on Civil and Political Rights*, G.A. Res. 2200 (XXI), 21 U.N. Gaor Supp. (No. 16) at 49, U.N. Doc. A/6316 (entered into force Mar. 23, 1976); *International Covenant on Economic, Social and Cultural Rights*, Jan. 3, 1976, 993 U.N.T.S. 3. It took ten years after ratification procedures in 1966 before thirty-six states ratified the covenants, the number required to make them legally binding.
- 61 See generally Henkin, *supra* note 39; Farooq Hassan, "The Doctrine of Incorporation," 5 *Hum. Rts. Q.*; Jacobson, *supra* note 58.

- 62 Barbara Stark, "The Other Half of the International Bill of Rights as a Postmodern Feminist Text," in *Reality*, *supra* note 42 (1995). The Economic Covenant demands positive commitment from governments to secure the basic standards of material existence for its citizens. The Civil Covenant, on the other hand, tends to reproduce existing male hierarchies and to address familiar "negative rights," such as the freedom of religion and expression. The United States has ratified the Civil Covenant (in April 1992) but not the Economic Covenant.
- 63 Provisions in the European Convention and rules in the Court of Human Rights authorize individuals and nonstate actors to petition. Such petitions have increased rapidly in the 1970s and 1980s. Several states have incorporated many of the Convention's provisions into their domestic law—Germany, The Netherlands, France, Spain, and Switzerland. In this case, decisions by the Court have a direct effect on domestic judiciaries, which emerge as a key organ for the implementation of human rights provisions. This pattern has grown markedly since the early 1980s with the growth of case law coming out of the court.
- 64 See Jacobson, *supra* note 58, at 98–100; see generally Hassan, *supra* note 61; Martin Heisler, *Transnational Migration as a Small Window on the Diminished Autonomy of the Modern Democratic State*, 485 *Annals Am. Acad. Pol. & Soc. Sci.* (May 1986).
- 65 Jacobson, *supra* note 58, at 100.
- 66 See generally Martin Shapiro, "The Globalization of Law," 1 *Ind. J. Global Legal Stud.* (1995) (commenting on a range of other concerns that are played in the judiciary).
- 67 See generally Henry J. Steiner, "Political Participation as a Human Right," *Harv. Hum. Rts. Y.B.* 7, (Spring 1988); *Ideas and Foreign Policy: Beliefs Institutions and Political Change*, *supra* note 38; Sikkink, *supra* note 38.
- 68 This is clearly not an irreversible trend, as current events in the former Yugoslavia indicate, but it does create a new set of conditions that our international legal order must take account of. Matters are sufficiently advanced to the point that even strong nationalist or ethnic resistance must confront the existence of the international human rights regime.
- 69 See e.g., Salacuse, *supra* note 38; Abbott, *supra* note 38; Aksen, *supra* note 38; Dezalay & Garth, *supra* note 38; Paul, *supra* note 38; Trachtman, *supra* note 38.
- 70 In chapter one of my 1996 book, I examine whether the impact of economic globalization on national territory and state sovereignty is yet another form of extraterritoriality, only larger. My discussion about territory in the global economy posits that much of what we call global, including some of the most strategic functions necessary for globalization, is embedded in national territories. Is this a form of extraterritoriality that leaves the sovereignty of the state fundamentally unaltered? Or is this a development of a different sort, one wherein the sovereignty of the state is engaged, and where territoriality, as distinct from territory, is partially transformed? I conclude that the materialization of global processes in national territories does not represent a mere expansion of older concepts of extraterritoriality to the realm of the economy, but rather a process of incipient denationalization, though of a highly specialized institutional, rather than geographic, sort. See generally *Losing Control*, *supra* note 3.
- 71 See generally, *Globalization: Critical Reflections*, *supra* note 2.
- 72 See generally Dezalay & Garth, *supra* note 38; Yves Dezalay, *Marchands de Droit* (1992).
- 73 Dezalay & Garth, *supra* note 38, at 58; see generally Thomas E. Carbonneau, ed., *Lex Mercatoria and Arbitration: A Discussion of the New Law Merchant* (1990). Anglo American practitioners tend not to support the continental, highly academic notion of a *lex mercatoria*. See generally *id.* The so-called *lex mercatoria* was viewed by many as a return to an international law of business independent of national laws. See generally *id.* Insofar as they are "Americanizing" the field, they are moving it further away from academic law and *lex mercatoria*.

- 74 These transnational regimes could, in principle, have assumed various forms and contents. But they are, in fact, assuming a specific form, one wherein the states of the highly developed countries play a strategic geopolitical role. The hegemony of neoliberal concepts of economic relations, with their strong emphasis on markets, deregulation, and free international trade, has influenced policy in the 1980s in the United States and United Kingdom and now increasingly also in continental Europe. See generally Coombe, *supra* note 14. This has contributed to the formation of transnational legal regimes that are centered in Western economic concepts. See generally Globalization: Critical Reflections, *supra* note 2.
- 75 See generally Rosenau, *supra* note 38.
- 76 See generally Bob Jessop, *State Theory: Putting the Capitalist State in its Place* (1990); *Losing Control*, *supra* note 3. For a broader historical overview of the state and sharp change see generally Anthony Giddens, *The Nation-State and Violence* (1987); Charles Tilly, *The Formation of National States in Western Europe* (1975). Even if the state is not as autonomous as the sovereignty rhetoric suggests, its consent to nonstate actors being subjects of international law remains foundational. But states may increasingly no longer be the only entities whose consent is essential. See generally McDougal & Reisman, *supra* note 38.
- 77 There is a growing consensus among states to further the goals of economic globalization, to the point that some see in this a constitutionalizing of this new role of states. See generally *Globalization: Critical Reflections*, *supra* note 2.
- 78 This combination of elements is illustrated by some of the aspects of the Mexican crisis of December 1994, defined rather generally in international political and business circles, as well as in much of the press, as the result of a loss of confidence by the global financial markets in the Mexican economy and government leadership of that economy. A "financial" response to this crisis was but one of several potential choices. For instance, there could conceivably have been an emphasis on promoting manufacturing growth and protecting small businesses and small home owners from the bankruptcies now faced by many.
- 79 Ruggie, *supra* note 38, at 143 (pointing out that the issue is not whether such new institutions and major economic actors will substitute national states, but rather the possibility of major changes in the systems of states: "global markets and transnationalized corporate structures . . . are not in the business of replacing states" even when they can have the potential for producing fundamental change in the system of states).
- 80 This is another issue here that I cannot develop, but see *Losing Control*, *supra* note 3, at 6-12. It has to do with the fact that representations that characterize the nation-state as simply losing significance fail to capture this very important dimension, and reduce what is happening to a function of a global-national duality - what one wins, the other loses. I view deregulation not simply as a loss of control by the state, but as a crucial mechanism to negotiate the juxtaposition of the interstate consensus to pursue globalization and the fact that national legal systems remain as the major, or crucial, instantiation through which guarantees of contract and property rights are enforced.
- 81 But see generally Alfred C. Aman, Jr., "A Global Perspective on Current Regulatory Reform: Rejection, Relocation, or Reinvention?" 2 *Ind. J. Global Legal Stud.* (1995).
- 82 See generally Richard Falk, "A New Paradigm for International Legal Studies: Prospects and Proposals," in *Revisiting International Law* (1989). See also Elshtain, *supra* note 12.
- 83 For instance, individuals and groups can become limited subjects of international law; nonstate forums outside the framework of the United Nations can be used to represent their interests. See generally Douglas M. Johnston, "Functionalism in the Theory of International Law," 26 *Can. Y.B. Int'l L.* (1988); Chinkin, *supra* note 47.

- 84 See generally Isabelle R. Gunning, "Modernizing Customary International Law; The Challenge of Human Rights," 31 *Va. J. Int'l L.* (1991); Elshtain *supra* note 12.
- 85 See generally Knop, *supra* note 45 (noting that if nongovernmental organizations (NGOs) are to be a channel for women's positions to be heard outside the state, then it is important to develop an international legal basis independent of the consent of the state for NGO participation in the making of international law); Hilary Charlesworth et al., "Feminist Approaches to International Law," 85 *Am. J. Int'l L.*, (1991); Chinkin, *supra* note 47 (focusing on giving power to women's NGOs, generally).