Article

Progress in Human Geography
35(5) 589–607

10.1177/0309132510389221
phg.sagepub.com
SAGE

Law and the geographic analysis of economic globalization

Joshua Barkan
University of Georgia, USA

Abstract
This article focuses on the curious absence of law in geographic accounts of state restructuring in relation to neoliberal economic globalization. It argues that law is ever-present in many of the issues at the center of geographic debates, yet rarely given sustained attention. In response, three approaches are offered, each emphasizing a different aspect of the law and each producing different geographies. First, I consider the absence as symptomatic of the problematic of state theory. Second, I review arguments from outside the discipline of geography concerning the ways actors involved in state restructuring engage with and think about the law. Third, I argue for a historical-philosophical investigation into the way that law produces the pockmarked landscape of the global economy through both the extension of legal frameworks and the legally authorized suspension of legal systems. The final section examines how these different approaches deepen our understanding of economic globalization by considering the role of transnational corporations as regulatory institutions in the global economy.

Keywords
corporate power, economic globalization, law, legal exception, legal geography, state restructuring

I Introduction

Geographically attuned forms of state theory have gained importance because of their ability to analyze transformations in the organization of power associated with economic globalization. Although discussions of globalization in geography are wide ranging, we now have a substantial body of theoretical work rooted in regulation theory and the strategic relational approach that examines the ways that states, operating at multiple scales, create the preconditions for different regimes of accumulation, but are also the spatially determinant outcomes of periods of economic restructuring. Empirically, these theories have been situated in a variety of geographic and historical contexts, but a dominant concern has been the shift in advanced capitalist economies from Fordist industrialization and what Neil Brenner (2004) has termed 'spatial Keynesianism' – the attempt by nation states to stem uneven capitalist accumulation through balanced investment across national territory – to neoliberal forms of capitalism associated with post-1970s globalization. Accompanying this change, geographers have documented the rise of 'competition states' that pit cities and regions against one another in a restless search for inward investment (Brenner, 2004).[1]

The geographic literature on state theory and globalization is distinguished not only in its attention to the spatiality of changes in regulatory

Corresponding author:
Geography/Geology Building, University of Georgia, 210 Field Street, Athens, GA 30602, USA
Email: jbarkan@uga.edu

structures, but also in the insistence that these changes are *politically* constituted. By focusing on politics, state theorists challenge simplistic narratives of globalization as a spatially and socially uniform process and also functionalist Marxian accounts in which the state is defined a priori as the political representation of a capitalist class. In recognition of the complexity and contingency of political responses to the economy, geographers have stressed the strategic rather than functional relations between states and accumulation systems. Bob Jessop, for instance, has argued that states are social relations mutually constituted with the division of labor in society, but that 'state *power* (not the state apparatus as such) should be seen as a *form-determined* condensation of the balance of forces in political and politically relevant struggle' (Jessop, 2008: 126). Likewise, Brenner has argued that transformations in state spatiality are instituted through projects and strategies that balance the dual needs of maintaining the institutional and political power of states while at the same time promoting types of accumulation whose benefits are unequal across society (see Brenner, 2004: 82–113). Thus, Brenner explains that the administrative projects of mid-20th-century European states that were designed to produce relatively equalized forms of national investment – including national urban planning, compensatory regional policies, suburban development projects, and programs to transfer taxes and resources from high- to low-income areas – were contingent and politically determined responses to economic crises. Similarly, the policies Brenner describes as 'rescaling statehood', including neoliberal interurban and regional competition policies, are the result of classes and class fractions competing to rework the state into new sociospatial forms.

These arguments successfully demonstrate that market-led governance does not indicate a decline in state power, but in many cases its expansion and reorganization (cf. Peck and Tickell, 2002). Although state theorists have focused particular attention on the scalar dynamics of these changes,[2] they suggest that restructuring involves a wide variety of spatial processes and forms, including the reorganization of places, networks, and territories (Jessop et al., 2008; see also Dicken et al., 2001; Leitner et al., 2008; Sheppard, 2002). Geographers are thus charting a comprehensive shift in state power, linking the new patterns of authority and regulation to the geographical imaginations of planners, policy-makers, intellectuals, activists, social movements, and politicians as they respond to and reshape the institutional forms of capitalism.

Given the interest in politics, it is remarkable that state theorists have been virtually silent on the role of law in these changes. After all, new forms of economic regulation are instituted and given force through a variety of legally codified rules and agreements. And the emerging legal structures of the global economy serve as a primary focus for social movements challenging globalization's inequalities. Although we have excellent scholarship on the ways that law, capitalist social relations, and space interact in property regimes (Blomley, 1998, 2002, 2004, 2005; Mitchell, 2003), legal geographies of capitalism have primarily focused on urban and national scales, while only tangentially engaging the complex legal geographies of economic globalization. Recent work by Matthew Sparke (2005) on trade law, Monica Varsanyi (2008) on immigration law, James Faulconbridge (2008; Faulconbridge and Muzio, 2007) on global law firms, Kate Boyer (2006) on welfare reform, William Terry (2009) on labor law, and Peter Kunzlik (2003) on competition law mark promising engagements. These articles document the fragmented and overlapping geographies of contemporary legal systems and the ways that individuals and groups navigate this splintered legal terrain. But they also suggest law is always already a part of the regulatory structures of economic globalization, and thus worthy of more systematic reflection.

This article initiates such an engagement by considering the curious absence of law in our accounts of state restructuring, suggesting ways to incorporate law into our thinking, and drawing out the implications for understanding contemporary economic globalization. Doing so, however, is not without its pitfalls. Although it is relatively easy to see the importance of specific legal acts or cases in shaping the global economy, inquiry into 'the law' shifts our attention to broader conceptual issues and philosophical debates. Moreover, 'the law' raises problems in the way it serves as a catch-all for distinct social processes and power relations, many of which have varied geographies. Within socio-legal scholarship, 'the law' can at once refer to: (1) concrete acts of legislative bodies; (2) the systems of courts and tribunals that adjudicate claims; (3) legal concepts, whose meanings are articulated within legal institutions, but also transformed in daily social practice (see Blomley, 1998, 2002, concerning the concept of property); and (4) the ways that individuals and social groups – including lawyers and judges, but also lay people – think about, engage with, contest, and reproduce legal concepts, formal law, and legal ideologies.[3]

For the purpose of this article, I am most concerned with 'the law' as the set of institutions that attempt to establish enforceable rules and protocols for dealing with global socio-economic relations and conflicts, but also *the processes by which the claims of these institutions take on the status of legal authority*. The first part of this definition invites empirical investigation into the socio-legal production of concrete laws or legal systems in a variety of different geographic configurations, including not only national and international law, but also the networks of courts, trade agreements, and arbitration that are part of the global economy. These institutions are distinguished from the broader practices of 'economic and extra-economic' regulation that state theorists have discussed (Jessop, 1997) in their commitment to legal liberalism not only as an ideology, but also as the *form* for dealing with conflicts. The second part of this definition, however, hedges against a potential legal fetishism implicit in the first, as the empirical study of legal institutions, if pushed far enough, raises philosophical questions as to the processes constituting legal authority. Because the empirical research we have on the legal structures of the global economy (again, largely undertaken outside the discipline) suggests a pockmarked legal terrain characterized by both the application and suspension of multiple forms of legal authority, it compels us to ask why and how some areas of social life become demarcated as within or beyond the scope of law and how both space and law are produced through the continual policing, transgression, and suspension of that porous border. Although these philosophical questions are not new, as I hope to make clear, they take on added importance with contemporary restructuring.

II The blank spaces of legal analysis

We can begin to understand the importance of law in state restructuring by exploring its peculiar absence from our accounts. Although we have an extensive literature examining the contingent production and institutionalization of various neoliberal and global regulatory projects, geographers have paid relatively little attention to the ways these processes are shaped by their legal contexts. Not only are almost all institutions of governance legal entities (whose powers are set through constitutions, statutes, legislation, court cases, contracts, and other enabling legal acts) but capital itself is also a social relation anchored in and produced through laws regulating property, work, trade, and the organization of firms, partnerships, and corporations.

The prominence of legal issues, along with their taken-for-granted character, are readily observed in some of the best work on neoliberal globalization. For instance, James McCarthy's

(2004) insightful account of regional trade agreements as a form of primitive accumulation, Joel Wainwright's (2007) thought-provoking analysis of the spatiality of resistance to the World Trade Organization's (WTO) ministerial conferences in Seattle and Cancún, and Becky Mansfeld's (2004) lucid discussion of changing property rights regimes in Northern Pacific fisheries each address the politics structuring different aspects of the global economy. Although legal issues of jurisdiction, administrative power, and right are central to their studies, as are questions concerning competing systems of legal authority such as national law, international law, police power, contract, arbitration, and custom, we get little sense of why politics in these cases has taken a legal form. Instead scholars emphasize the ways that geographies of global trade, production, and resource use are formed as policy projects or, more broadly, representative of neoliberal ideologies, obscuring the ways that power operates through legal institutions in these instances.

But the fact that policy projects or diffuse ideologies are instituted through specifically legal processes, including legal forms of reasoning, evidence, argument, and adjudication, has relevance for understanding the political constitution of economic globalization. Taking seriously McCarthy's (2004: 327) claim that 'environmental outcomes are largely the result of political choices, institutional structures, and power relations that cannot be separated from the broader political-economic dynamics of globalization', these cases constantly pose questions about legal institutions and legal forms of power. McCarthy's study of the North American Free Trade Agreement (NAFTA) is a case in point, as he highlights the legally instituted investor protections as the link between NAFTA and ongoing environmental degradation. Yet, if NAFTA's legal clauses embody the power relations shaping environmental outcomes, McCarthy is less clear about the structures, relations, and dynamics that shape NAFTA as a body of law and a system for adjudicating conflicts. The confusion is apparent in the multiple ways that McCarthy presents the agreement. The investor protections in NAFTA appear as: (1) representative of 'the neoliberal project' in attempting 'to expand private property, shrink public goods and purposes, and roll back state regulatory powers and capacity' (McCarthy, 2004: 332); (2) an expression of liberal capitalism's drive for primitive accumulation (p. 329); (3) part of an ideological assault on traditional conceptions of property orchestrated by legal scholars and jurists such as Richard Epstein under the concept of 'regulatory takings' (p. 331); and (4) a policy, introduced in the United States through executive order during the Reagan administration but defeated at the ballot box, only to be reincorporated into multilateral trade agreements at the expense of domestic law (pp. 331–332). This ambiguity does not undermine McCarthy's substantive conclusions, but it compels some explanation of how NAFTA's investor protections can be simultaneously a capitalist project (aimed at undermining state regulation), a state policy (designed to promote the market), and a diffuse ideology. NAFTA is not an agent through which states, capital, or neoliberal ideologues act, but a *legal institution* (a trade law) structured by ongoing *legal processes*. McCarthy even implies as much in the final section of his essay, which shows how NAFTA shapes subsequent legal claims made about the environment by both corporations and social movements.

Likewise, Mansfield's account of property regimes in North Pacific fisheries is detailed in its description of ideologies of privatization and marketization advanced by economists, academics, and fisheries managers. While certainly she is correct to conclude that 'fisheries analysts have structured regulation debates around the question of the commons and rationalization of the oceans' (Mansfield, 2004: 325), she provides little detail about how ideologies are incorporated into the legal conventions and tribunals that make up the Law of the Sea. Without

discounting the role of ideologies or cleanly separating them from law, there remains an important moment in the process of privatization in which ideologies are translated into the legal claims of states, companies, and indigenous groups. The political importance of such considerations becomes apparent in Wainwright's (2007) study where he notes that the ability of activist, non-governmental organizations (NGOs), and trade representatives from third world countries to contest the WTO's trade policies was linked to their ability to engage in the formal negotiating process. Access was both determined by the existing rules of the WTO and an issue negotiated at the ministerial conferences. As Wainwright notes, this access reflected the ongoing balance of power between the powerful countries of the 'Quad' and the broader delegations. But it is also critical that these power relations were expressed primarily in the ability to determine the structure and content of subsequent rules and the legal frameworks governing the institution of the WTO. Wainwright indicates that this power over the legal process has also instigated changes in the strategies and subject positions of those resisting the WTO, as opposition groups attempt to formalize their standing through legal designations as NGOs.[4]

But it is not just empirical accounts of neoliberal globalization that presume, without interrogating, the law. So, too, does state theory itself, in spite of the explicit calls for 'postdisciplinary' approaches, which might reasonably engage legal issues.[5] For instance, Neil Brenner suggests the necessity of postdisciplinary research because globalization blurs the 'established divisions between social, economic, political, and cultural processes', while also unsettling 'state-centric geographical assumptions that have long underpinned traditional, disciplinary approaches to social science, in which social, economic, and political processes have been presumed to be geographically congruent with national state boundaries' (Brenner, 2004: 23). In keeping with the strategic relational approach, Brenner's postdisciplinary methods attend to the social basis of state power, often presenting state spatiality as the institution of a hegemonic project. Thus, the particular geography of state power reflects the naturalized, 'common sense' assumptions of planners and policy-makers, as hegemony stands in for the ways that social, political, and economic demands are translated into spatial structures of regulation. As Clive Barnett (2005: 9) has noted, the frequent appeals to hegemony as an explanation for the changing geography of state power lacks 'any clear sense of how consent is actually secured, or any convincing account of how hegemonic projects are anchored at the level of everyday life'. In other words, state theory glosses over the process by which the historically contingent policy responses formulated in university offices, think tanks, and planning departments, and debated in corporate boardrooms, union halls, street protests and many other locations, are implemented and institutionalized, as well as the ways this complex process shapes and is shaped by individual consciousness and sociocultural change. Legal institutions, however, are, on one hand, one of the structures by which policy gets realized, and thus play a role in the creation, contestation, and reproduction of new regulatory frameworks. But they are also institutions transformed by the sociocultural processes Barnett emphasizes and constitutive of diverse forms of individual and collective legal consciousness (see Ewick and Silbey, 1998; Silbey, 2005).

III Strategies for addressing the blank spaces of legal analysis

There are a number of ways to respond to this absence. One approach would be to consider why state theory so persistently forecloses upon questions of law. In this sense, the lack of attention to the legal would be indicative of what Louis Althusser (1969; Althusser and Balibar, 1997) termed the 'problematic' structuring state

theory. Because all thought emerges within ideology, Althusser argued that thinking necessarily misrecognizes the objects it seeks to explain. The problematic, then, refers to 'the objective internal reference system' of a mode of thinking, which structures the 'questions commanding the answers given by the ideology' (Althusser, 1969: 67, note 30). More directly, the problematic can be considered as the structure that makes certain problems available for thinking while obscuring others. In this sense, what is absent functions as a kind of symptom, allowing us to grasp the internal logic of a problematic. If we want to understand how a system of thought works, Althusser argues, we must pry into this unconscious architecture that dictates not just the answers, but also the very questions we pose about the world.

As I have already suggested, the absent presence of the law in accounts of restructuring makes state theory available for such a symptomatic reading. To do so, we might question how assumptions about the state and state power still structure the 'postdisciplinary' problematic of state theory, even as it attempts to transcend state-centrism and the territorial trap of state-centric epistemologies (Agnew, 1994; Brenner, 1999). For instance, if the institutional forms regulating capitalism and its crisis tendencies no longer look or function as territorial nation states, is it still meaningful to talk about their geographies as a transformation, restructuring, or rescaling of *state power*? How might the very framing of the questions that state theory poses to and for itself as a discipline obscure other forms of power (including those working in and through legal institutions) that are reshaping the geographies of global capitalism?

While this type of symptomatic reading may be necessary and would certainly be salutary in terms of clarifying our objects of analysis, and specifically the concept of 'post-disciplinarity' as it relates to globalization, it immediately shifts our attention back to the internal logics of state theory. Another more conventional approach would be to consider how legal actors – including the legal representatives of firms, states, NGOs, and social movements, along with lawyers, judges, arbitrators, regulators, and planners – think about, appeal to, engage, create, reproduce, and contest the law, and how geography factors into this process. In this respect, geographers might contribute to the discussion already occurring among socio-legal thinkers, political scientists, and international relations theorists under the banner of the 'globalization of law'. While scholars have long been interested in the legitimacy and structure of international legal institutions, a new literature began to emerge in the 1990s investigating the ways that legal systems responded to changes in the international economy. Scholars focused on issues such as the exporting of Anglo-American legal models (Kelemen and Sibbitt, 2004; Shapiro, 1993), the convergence of international norms and their institutionalization in formal and informal organizations of global governance (Dezalay and Garth, 2002b; Goldstein et al., 2000; Halliday and Carruthers, 2007; Kingsbury et al., 2004; Slaughter, 2004; Teubner, 1997b; Trubek et al., 1994), the transplantation of neoliberal models of law and economics (Dezalay and Garth, 2002a), and the growth of private international law, international commercial law, and international economic arbitration (Cutler, 2001, 2003; Dezalay and Garth, 1996; Mattli, 2001; Teubner, 1997a). Like discussion of globalization across the social sciences, a primary concern was whether or not these new forms of authority could properly be considered 'global' in terms of their reach and uniformity. However, unlike the celebratory discussions of globalization in business schools, legal scholars were repeatedly confronted by the limits of global law. Goldstein et al. (2000) noted that, as a form of world politics, international legal frameworks were 'hardly uniform' (p. 386), and Martin Shapiro (1993), in an important early formulation, suggested that the globalization of law was 'an extremely narrow, limited and specialized set

of legal phenomena' (p. 37) better considered an extension of US business law.

The recognition that the legal landscape is both conceptually and geographically variegated offers an opening for geographic analysis. Given the extensive geographic research into inequality and uneven spatial development, we might inquire into whether or not the fragmented and uneven landscape of global legal systems represents a failure of a truly globalizing legal process, or is part and parcel of how global law operates. International relations thinkers rarely consider these questions, treating unevenness as simply the result of the strategic decisions of states, firms, individuals, and non-governmental organizations. The best of this work provides thick empirical detail about global legal structures and institutions. Dezalay and Garth (1996, 2002a, 2002b), for instance, draw on the work of Pierre Bourdieu to study the way legal elites construct global regulatory frameworks to maintain power within national and international legal regimes. But much of the literature on international legal regimes uses rational choice methods in which legal institutions are reduced to another form of interest group politics. Abbott et al. (2000), for instance, have articulated arguments about the 'legalization of world politics', in which politics can be considered more or less 'legalized' depending on the strength and clarity of obligations, the extent that oversight is delegated to third parties, and the precision of international rules. Variations in international legal frameworks are conceptualized as the outcomes of competition between states and private actors seeking to structure their regulatory environments, while legal frameworks are treated as responses to social and economic processes without being constitutive of global power relations.

Socio-legal scholars have recognized an interesting geography of legal regulation, which seems to operate at a distance from conventional forms of both national and international law. Gunther Teubner (1997a), for instance, has emphasized the development of plural forms of legal authority as part of economic globalization. His primary example is the *lex mercatoria*, which he has characterized as a private and global commercial legal framework operating independently of states. Drawing on systems theorists such as Niklas Luhmann, Teubner has argued that the *lex mercatoria* constitutes an 'autopoetic' form of authority that is both self-defining and self-reproducing, and thus not reliant on the sovereign authority of territorial states but on its structural coupling with international economic actors. Kanishka Jayasuriya (2001) has built on similar themes to explain how globalization has transformed traditional state-centered conceptions of sovereignty. Whereas territorial nation states use constitutions to incorporate political conflicts into legal orders, Jayasuriya has noted that globalization produces an 'economic constitutionalism' that transforms economic regulation into technical issues removed from popular politics. Anne-Marie Slaughter (2004) has described a similar process of 'disaggregating states' in more favorable terms, focusing on the growth of transnational legal networks that work through and rely on state institutions. She suggests that these networks are important in establishing best practices and cooperation among state regulators, but they also face legitimacy problems due to the lack of democratic control over economic questions. The result of these transformations, as William Scheuerman (2000b, 2004) has explained, is a paradoxical erosion of the formal elements of the liberal rule of law – such as consistency, transparency, and predictability – while the export of western legal regimes is central to expanding capitalist social relations. Economic globalization brings forth increasingly anti-democratic forms of emergency and executive law, which, according to Scheuerman, a return to classical liberal law has the potential to stem.

Taken together, these accounts highlight a spatial transformation in the legal institutions of the global economy. Legal institutions, particularly those focused on economic regulation, are becoming more disconnected from territorial

sovereignty as they simultaneously reflect and promote the capitalist world economy as both a globally extensive and deterritorialized system. But they also pose theoretical questions about the relationship between law, space, and globalization. For instance, Scheuerman and Jayasuriya both note the ways that the political requirements of maintaining a capitalist accumulation system undermine traditional forms of liberal legality. Scheuerman (2004) goes further, suggesting that the primary problem with space-time compression is that it undermines the institutions of liberal law (rather than, say, its pronounced social and material inequalities) and that the rule of law is the primary bulwark against the social acceleration of time associated with globalizing capitalism. Yet, if liberal law is antithetical to late capitalism, how is it that contemporary forms of economic globalization, including these dislocated structures of executive and emergency law, emerged within and are predicated on liberal legal regimes? Moreover, Scheuerman's argument that the temporality of contemporary capitalism requires unprecedented use of emergency or executive power fails to consider the ways exceptions have long been at the heart of laws regulating the economy (see Agamben, 2005; Barkan, 2009). While legal exceptions, privileges, immunities, and emergencies are certainly prevalent under contemporary globalization, they are by no means new, as states have long turned toward exceptional forms of law to promote and maintain accumulation systems. This suggests a much more complicated relationship between law, space, and economy than these accounts indicate.

To fully understand why, however, requires a different approach to law, not based in empirical analysis of specific laws or even legal systems, but in what Giorgio Agamben (1998: 10) has called a 'historico-philosophical' investigation into the ontological relationship between law and the space of politics. This approach can be explained by returning to the aforementioned critique of state theory. In response to problems conceptualizing power and politics, many scholars have turned their attention away from the state and have examined neoliberal globalization through Foucauldian notions of governmentality. In doing so, they deemphasize macro-social regulatory compromises and focus on the ways power circulates through subjects and objects, cultivating dispositions that are constitutive of the changing dynamics of capitalism (Larner, 2003; Larner and Le Heron, 2002). While some of these dispositions resemble the market-based rationalities that have become emblematic of neoliberal capitalism, others are more contradictory. In either case, it is the dispositions themselves that are the primary social facts, not an externally formed political and economic process of economic globalization to which subjects merely respond.

Foucault's work has been so vital as a rejoinder to state theory because he already displaced the state in his analytics of power, describing a twin movement to 'cut off the King's head' (Foucault, 1980: 121). Famously, he examined, on one side, the development of disciplinary norms that worked on the conduct of individuals by controlling bodies in space, and, on the other, biopolitical forms of calculation designed to regulate life by ensuring the security of populations (Foucault, 1990: 135–45). Each of these transformations in political reason were marked by a decisive shift away from the sovereign's direct powers over all life within a territory. Instead, the spatially diffuse biopolitical and disciplinary techniques worked through the bodies of individuals and populations, fostering life by shaping individual comportment and managing aggregate risk within society. These methods displaced and borrowed from older political rationalities, including Medieval and Roman discourses of pastoral power, as well as Ancient Greek notions of the care of the self. Yet, Foucault also argued that biopolitics was coincident with the *decline of law* as the governing logic of political order. Once the target of political reason shifted from the institutions of the state

to political society and its capacities, law's primacy as the expression of sovereign authority was replaced with diverse techniques of normalization, security, and control.

Contemporary analysis of neoliberalism seizes on an implicit link in Foucault's work between new forms of modern power and the rise of capitalism. Although Foucault never argued that capitalism determined the rise of governmental or biopolitical power, capitalism was an important element in their emergence. In the *History of Sexuality*, he argued that agricultural surpluses of the 18th century were critical to transforming the relationship between history, life, and politics and that 'bio-power was without question an indispensible element in the development of capitalism; the latter would not have been possible without the controlled insertion of bodies into the machinery of production and the adjustment of the phenomena of population to economic processes' (Foucault, 1990: 140–141). Moreover, the centrality afforded political economy in the lecture series of the late 1970s suggests that Foucault understood the discipline of economics, as well as the social relations of capitalism, as establishing new forms for the regulation of life. The economy, as both a method of order and a sphere of social life, was thus central to Foucault's argument that state authority and the sovereign command were increasingly dispersed into the capillary movements of social regulation.

However, the continued importance of legal institutions suggests that Foucault's jettisoning of the law was premature. Alan Hunt (1992; Hunt and Wickham, 1994) has argued that legal structures were transformed under modernity, shifting from the authoritative statement of the sovereign into a compendium of governing norms.[6] Hunt and Wickham argued that 'Foucault's derivation of law from monarchical power eliminates a more adequate history of law as emanating from dispersed sites of royal power, popular self-regulation, customary rights, competing specialized jurisdictions (ecclesiastical, guild, commercial, etc.), local and regional autonomies, and other forms of law' (Hunt and Wickham, 1994: 60). Whereas Foucault collapsed the law into a centralized territorial order, Hunt and Wickham accentuated diverse legal institutions emanating from multiple sources of authority. In addition, while they accepted Foucault's account of a temporal shift from legal-juridical models of power to governmental norms, this change did not indicate either the disappearance or the dispersion of law. Instead, they argued, law assumed a specific role in modernity of 'policing the boundaries of the political and securing the constitutional unity of the nation state' (Hunt, 1992: 36).

This peculiar nature of law as the discourse that defines the borders of the sociospatial sphere of politics makes it important for understanding the new spatial orders associated with regulating global capitalism, and the ways global capitalism emerges as a biopolitical order. Giorgio Agamben's recent work is pivotal.[7] Agamben has been widely read for demonstrating that the regulation of life always bears a relationship with the law. He bases this argument on his reading of *homo sacer* – an archaic Roman legal designation referring to a person who can be killed by anyone but whose death is not recognized, in any legal sense, as either homicide or a religious sacrifice – and the state of exception – in which the law is preserved through its legally authorized suspension. Both *homo sacer* and the exception refer to moments in which the law constitutes the borders of political life not by extending legal privileges, but by arrogating to itself the potential to legally delimit or rescind them. This process creates not only zones of 'inside' and 'outside', but a particular potentiality of the law 'to maintain itself in its own privation' (Agamben, 1998: 28), which he calls the sovereign ban. The potentiality of the law to legally remove or withdraw itself from spaces and populations enables the legal regulation of political life by killing individuals for the sake of public good.

For Agamben, the exception is both a spatial relation, exemplified by what he terms 'the camp', and a conceptual limit case, 'the exception', which transgresses and founds legality as such. As Blecher et al. (2008) have noted, the geographic importance of this formulation is not that it allows us to designate specific spaces as 'camps' or specific individuals as 'bare life', but that it explains the topological and emergent conditions of possibility for biopolitical power within western legal rationality. In other words, the dual mechanisms that Foucault describes for controlling, managing, and ameliorating life through both individualizing and aggregating techniques each bear a relationship to law. But law is also always articulated in reference to space. This co-presence becomes clear if we consider recent writing on the Greek concept of *nomos* ('law'), which suggests that law founds itself and comes into being through an act of demarcation and distribution that makes both space and law (Agamben, 1998, 2005; Galli, 2001; Schmitt, 2003). In this sense, 'law' does not simply refer to legal codes that govern pre-given spaces and territories, but to a type of boundary making and ordering of political life through practices of inclusion and exclusion.[8] Because *nomos* provides the philosophical grounding for even modern theories of law and jurisprudence, this literature suggests that law is always characterized by its potential to legally carve up spaces and populations, with the inclusion of some individuals and spaces in the legal sphere only to the extent of their systematic non-inclusion. Moreover, as Mathew Coleman (2007) has perceptively argued in his comments on Agamben's *State of Exception*, and as Nasser Hussain (2003, 2007) has argued in the context of British colonialism, the postcolonial Pakistani state, and the exceptional measures governing detentions at Guantánamo Bay, these limit cases are better understood as continuous – both *conceptually* and *geographically* – with regular legality than a focus on emergencies and exceptions as extrajuridical or extraterritorial events might suggest. Such a focus displaces the undue emphasis on state issued declarations of emergency, martial law, and states of siege, which reduce Agamben's thought to a simple inversion of Schmittian political theology, presenting law as an ongoing practice of constituting political space.

These philosophical reflections might seem to take us far away from the concrete transformations associated with economic globalization. Yet geographers have successfully demonstrated a similar process in which the law plays a crucial role in extending and delimiting legal authority through practices of war, policing, and security (Gregory, 2006; Hannah, 2006; Minca, 2005, 2006). For instance, in the US War on Terror, claims about the exceptional status of the war, the limits of legal rules to apply to various individuals (such as those designated 'enemy combatants'), or the inability of states to follow 'normal' legal protocols have been shown to be not just legal changes, but reworking the boundaries between political inclusion and exclusion. Rather than being peripheral, questions of sovereignty, law, and exceptional powers are at the center of contemporary geopolitics. Uneven fields structured by the application of multiple legal and quasi-legal systems, as well as spaces characterized by the withdrawal of legal protections, not only emerge within the context of war and international security, but also in new regulatory structures for business, trade, finance, and work. When situated in relation to the concerns of state theorists, Agamben's arguments compel us to pay particularly close attention to the ways that law functions as an apparatus or *dispositif* that demarcates its own domains of authority by retaining the potential to define spaces, populations, and individuals as outside of its ambit (Agamben, 2009).

Two processes of spatial demarcation appear to be central to global economic regulation. First, legal geographers have made clear that canonical legal texts bound the law as a distinct form of social and spatial practice. Nicholas

Blomley (1994) has described this process as legal 'closure', in which law-makers continually attempt to bracket law as a rational, stable, and clearly bounded set of rules governing politics within specific territories. Closure works, in part, by translating political claims and social interest into a new idiom. For this reason, when groups and individuals enter legal institutions, they reposition their arguments into a different linguistic and rhetorical form.

To critical scholars comfortable with conceptualizing law as simply a mask of domination, suggesting that legal closure makes law different from other forms of politics might seem to reaffirm a core ideological fantasy of legal liberalism. Even if we recognize this limit relationship between law and politics as, paraphrasing Stanley Fish (1991), the law's wish to formal existence, the practice of continually working to bracket legal institutions from other social domains and to establish the self-sufficiency and autonomy of legal rules distinguishes legal thinking from other types of political thought. Furthermore, if we shift from legal theory to studying what Mariana Valverde (2007: 73), has called 'the actual epistemological workings of various legal complexes', we are confronted with legal actors that continually negotiate between, on one hand, formal systems of rules, logic, and argumentation that are presented as technical and, on the other hand, 'pragmatic' appeals to the 'ends' of law. Like formalism, these pragmatic ends are also structured by a legal habitus that is always political. But part of that habitus entails the continual transformation of the form and content of arguments and decisions to accord with the formal requirements of legal systems in which the distinction from politics is at least rhetorically significant.

This process occurs not only with political claims, but also with economic interests and ideologies. As with the limit relation between law and politics, both the thought and practice of economic regulation is preoccupied with the boundary between the spheres of law and economy. Both historically and conceptually, the disciplinary and biopolitical power that Foucault shows us working through the economy was produced through legal structures and required legal institutions for its maintenance and reproduction. Certainly the articulation of neoliberalism as a philosophy of social order, from the canonical early formulations of Walter Lippman and Friedrich Hayek to contemporary advocates of the law and economics movement such as Richard Epstein, Richard Posner and Frank Easterbrook, depend on a theory of the relation between law and the economy and offer an economic critique of law (see Foucault, 2008). Moreover, as with all political and legal philosophies, the legal theories grounding the broader neoliberal critique contain implicit spatial assumptions about the geographic configuration of both law and economy.[9] More critically, these assumptions get taken up into the daily apparatus of legal production, interpretation, and citation.

Geographers are well positioned to consider the ways that specific laws, as well as legal institutions and structures, produce an economic sphere through the rules and processes governing issues such as regional economic integration, free trade, environmental regulation, and resource use mentioned above. To return to just one example, the trade dispute resolutions that McCarthy focuses on as part of NAFTA's investor protections work by separating trade disputes from 'the domestic law of any given country, or international law dealing with subjects such as human rights or the environment' (McCarthy, 2004: 332). In other words, there already exists a distinction between economic questions, treated under dispute resolution protocols that are adapted from models of corporate arbitration, and legal issues, governed by domestic and international law, that the trade agreement presupposes and reiterates as part of constituting, both spatially and legally, a regional economy. As Matthew Sparke explains in his discussion of NAFTA's 'level playing field' for transnational capital, the trade agreement involves both a

'legalistic entrenchment' of neoliberal structural changes and a 'new constitution for business' that foments further legal challenges (Sparke, 2005: 145, 151). But the process of legally constituting this economic sphere is not just geographic in a metaphorical sense. Legal structures are produced in specific locations including law offices and government buildings in centers of political power such as Washington, DC, Ottawa, and Mexico City, while also being instituted and reproduced in places such as national borders or the relatively secluded spaces in which trade disputes are heard and adjudicated. Moreover, these structures are bound to have uneven territorial impacts not only in the border regions that Sparke among others has so ably discussed, but also across national territories. The geography of the production and reproduction of this legal sphere has implications for how this more abstract and metaphorical space of the economy is understood, translating particular interest into universal legal categories (see Sheppard, 2005). Geographers might also consider how the relative spatial seclusion of legal processes is central to the problems of democratic accountability in global economic regulation that scholars such as Slaughter (2004) have noted.

In addition to the legal demarcation of the economy as a sphere beyond law and politics, the second way that law produces geographies of economic globalization is through the continual use of exceptions to create the uneven landscape necessary for the circulation of capital. Critical scholars have noted the way that crisis has emerged as a major trope used to restructure economies (Harvey, 2005; Klein, 2007), but even in these contexts it is primarily through legal codes and frameworks that specific 'exceptional' powers are defined and responses to crises instituted. Agamben (2005), among others (Neocleous, 2006; Scheuerman, 1999, 2000a), has noted the way that formal states of emergency are often used to respond to economic crises. Yet Agamben, unlike Scheuerman, emphasizes the continuity between these emergency measures and the broader rule of liberal law. Moreover, legal exceptions and immunities are deployed in far more mundane ways than the focus on states of emergency suggests. The establishment of export processing zones with exceptional tariff structures, the creation of tax-abatement and tax-exemption districts to lure inward investment, or the creation of enclave economies carved out of national territories (see Ferguson, 2005) all entail the legal designation of exceptional spaces – geographic zones with distinct relations to both territory and law – to maintain accumulation regimes.

IV Towards the spatial politics of law and economic restructuring

Ultimately, the importance of studying the law in any of the aforementioned ways rests in the ability to bring to light aspects of globalization that can help us formulate more just and equitable responses to globalization. Toward that end, I would like to conclude this article by briefly considering the ways that these various approaches to law help us understand one critical issue in globalization research, namely the power of transnational corporations as regulatory institutions in the global economy. Given the limits of space, these arguments are exploratory, suggesting areas for further research. But they also suggest that attention to the law forces us to rethink how we understand the role of corporations in economic globalization and how we contest the inequalities that corporate-led globalization generates.

While one could certainly emphasize other aspects of globalization, the role of corporations as regulatory institutions in the global economy is well established. In what has become a dominant account, Peter Dicken and his colleagues have argued that contemporary economic change is the outcome of the political strategies of states and firms – as well as their networked interrelations – as they attempt to harness competitive advantages (Dicken, 1994, 2000, 2003; Dicken et al., 1997; 2001). States, differently situated

geographically and in the structure of the global economy, have pursued a variety of economic policies ranging from classic neoliberal programs to state-led forms of economic development, while firms experiment with spatial and organizational structures to maximize profits. Variations in the global economy emerge from different models of state regulation intersecting various organizational forms for managing production and exchange.

Attention to the law complicates this account by forcing us to confront the legal frameworks in which the powers of states and corporations are set and contested. For instance, Dicken treats corporations primarily as organizational structures for the coordination of production (see Dicken, 2004), but modern corporations are also legal frameworks for a specific type of property relation: the share. Once considered as such, notions about ownership (as both a social relation and a subject position), the 'location' of corporations, and even the understanding of TNCs as unified 'actors' become much trickier things to establish. While we often refer to corporations in terms of nationality, the legal structures of corporations may traverse multiple jurisdictions. More importantly, the attempt to locate corporations for various types of legal actions – from the levying of taxes to the administration of labor or environmental regulations – is not established by one legal code, but something struggled over through a variety of legal avenues in diverse legal settings (see, for instance, Avi-Yonah, 2000, 2003).

One could chart these geographies simply by paying attention to the ways that corporate production networks emerge through, interact with, and shape legal fields. But these networks are also structured by the sovereign ban. To understand why requires moving beyond empirical accounts of corporate law to examine the legal genealogies of corporations and states as they interact not only to coordinate production but also to manage much of economic life. For instance, in both Anglo-American and continental law, corporations have long been considered legal fictions created by states to carry out duties of government. As with modern forms of state sovereignty, corporations come into legal existence through a kind of exceptional status embodied in the corporate charter. Historically, charters established the existence of corporations, their rights to own property collectively, to sue and be sued under a common name, to use a common seal, etc. But they also could establish politically granted monopoly privileges over trade routes, bridges, roads, or waterways. In notable cases, charters granted corporations rights to punish individuals or raise militaries. Examples of exceptional corporate powers would certainly include the infamous 18th- and 19th-century imperial trading corporations, but local governments in the 19th-century United States also used charters to create corporations that could govern populations and territory, most notably for the construction and management of transportation and communications infrastructure. The process by which these quasi-public entities became private, and these newly private corporations were regulated, is one that occurred not only through clearly articulated political projects (though certainly those were important), but also through the transformation of corporate rights and privileges along with changes in basic legal concepts, such as the meaning of corporate personhood or the nature of corporate ownership. Though that story is beyond the scope of this article, those legal changes continue to structure corporate power today and are intertwined with the ability of corporations to manage territory, resources, workers bodies, and risk.[10]

In addition to changing our understanding of the emergence and reproduction of the corporate economy, the focus on law also forces us to rethink how we engage corporate-led globalization. For instance, currently a broad public discussion is playing out among politicians, regulators, activists, scholars, investor groups, and corporate executives, as well as in various media outlets, concerning strategies for making

corporations responsible for the environmental, social, and political impacts of their decisions. While there is certainly debate about what constitutes the social responsibility of corporations and the methods and means to achieve accountability, discourses of corporate social responsibility (CSR) or corporate citizenship (CC) are quickly coalescing into dominant regulatory frameworks for business (for a comprehensive review, see Crane et al., 2008). Almost all major transnational corporations proudly broadcast their CSR initiatives and tout their role as good corporate citizens while supranational institutions such as the United Nations have been working to institutionalize CSR regulatory frameworks. Initiatives like the UN Global Compact or the appointment of a Special Representative on Business and Human Rights suggest the emergence of new legal frameworks designed to stem the worst abuses of corporations.

While much of the research on CSR has attempted to formulate what might constitute a viable and enforceable concept of responsibility, what interests me is how politics is structured around legal concepts of 'responsibility' and 'citizenship' that have been instrumental to the historical development of corporate power in the first place. Corporations have long been viewed as a type of exceptional citizen within the law, with states granting corporations privileges in return for corporations undertaking projects of economic and social development. In this case, discourses of CSR and CC are articulated as solutions to problems of corporate accountability and governance that are not dependent on territorial sovereignty and the institutional structures of the state. Rather than a restructuring of the state, CSR and CC are better understood as legal norms designed to organize a quasi-universal economic order in the absence of a political constitution. As such, these legal frameworks are not only concerned with regulating capitalism in ways that can maintain accumulation, they are also modes of biopolitical government aimed at limiting, channeling, and directing life through corporate economic and political resources. The shift from national corporate laws to transnational norms indicates spatial rescaling and new geographies of networked governance. But the sedimented histories and geographies within these legal concepts also raise profound questions as to whether or not these legal strictures can actually rein in or control corporate power instead of simply reiterating its originary conditions of possibility.

V Conclusion

The examples around corporations and corporate power are only suggestive, but they are meant to demonstrate the possibility of a more robust engagement with the law in discussion of economic globalization and state restructuring. As it currently stands, we have a highly formalized account of the way that states respond to crises within accumulation systems. Moreover, this literature has argued that restructuring is political, dynamic, and historically contingent. All of this is to the credit of state theory. Yet when we come to actually study this politically dynamic and historically contingent process of sociospatial change we seem to lack the language to describe how restructuring occurs. In this article, I have suggested that law is not only empirically present in neoliberal globalization, but also that attention to the legal can help us conceptualize more rigorously the processes by which political and economic space is formulated, contested, reproduced, and transformed. In this sense, I am less interested in establishing *the* theory of law's spatiality in relation to economic globalization than in developing a more robust engagement with legal issues, from the empirical to the philosophical, across our collective research agendas into the contemporary global economy. Precisely because the legal structures of economic regulation rework real concrete spaces while also raising philosophical questions about the spatial basis of political and economic order, geographers

have a great deal to contribute to postdisciplinary investigations of globalization.

In particular, I have emphasized two aspects of spatial demarcation that seem particularly relevant to the legal production of global regulatory space. The first of these concerns the way the law works as a discourse and practice that not only bounds itself, through practices of legal 'closure', but also polices the spheres of politics and the economy while mediating their interrelation. As such, the law is important in establishing what constitutes recognized modes of action and being within these domains. The second emphasizes the ways that economic regulation frequently entails legal designations of special or exceptional privileges and immunities that are constitutive of the uneven character of the global economy. Recognizing that these forms of legal space are produced not only through states of emergency in relation to war, security, and geopolitics, but also through legal privileges granted to maintain regimes of accumulation is an important contribution to broader discussions about modern power. It also, however, is relevant for how we think about issues such as the regulatory geographies of corporations or trade.

Ultimately, geographers should care about law in accounts of globalization because law is always already, in the words of Pierre Bourdieu (1987: 839), a 'quintessential active discourse' shaped by its social context but also constituting important aspects of the social world. Such an argument is far different from advocating some absolute primacy or determination of formal law over politics. Rather, it suggests that in particular times and places, and especially within the processes of contemporary economic globalization, law is an incredibly powerful tool or technology that not only distributes power within social formations but also defines the conceptual and physical borders between social spheres. To claim that law is critical to understanding contemporary capitalist globalization is not because law embodies universal truths or the accumulated traditions and customs of a people (although these remain common explanations for the legitimacy of law) but because, at this time, law is an important type of world-writing with far reaching political, economic, and social effects.

Acknowledgements

This article benefited from discussions with Billy Davies, Vinay Gidwani, Stijn Oosterlynck, Eric Sheppard, Joel Wainwright, Marion Werner, and the reviewers and editors. Nik Heynen, Amy Ross, and Adam Sitze gave useful suggestions during the revisions, and Libby Lunstrum, at the eleventh hour, helped me see things more clearly. They bear no responsibility for the arguments here, which are mine alone.

Notes

1. Brenner (2004) summarizes the broader literature on state theory and restructuring while also providing a useful example of current arguments about the state and globalization. The strategic relational approach, which is Jessop's particular rendering of state theory, is summarized in Jessop (2008) and used by Brenner. Other summaries and programmatic statements include Barnett (2005), Brenner and Theodore (2002), Castree (2006), Jessop (1990, 1995, 1997, 2002) Larner (2000, 2003), Larner and Le Heron (2002), Larner and Walters (2004), Peck (2001, 2004), Peck and Tickell (2002), Tickell and Peck (1992, 1995).
2. See Brenner (2004) for a summary. The attention to scale has also been a source of criticism of the state theory literature (see Jones et al., 2007; Mansfield, 2005; Marston et al., 2005), but, as I suggest above, scale is only one of the processes by which the spatiality of the state is being transformed. State theorists seem as concerned with establishing the processes driving sociospatial shifts as they do with charting the spatial forms that states are assuming, which, according to their theories, remain highly fluid and dynamic.
3. The final point has been the focus of socio-legal and much critical legal research, and now comprises a large literature, particularly under the concepts of 'legal culture' (Friedman, 1994) or, more usefully, 'legal consciousness', 'legal ideology', or 'legal hegemony' (see Ewick and Silbey, 1998; Thompson, 1975; Tomlins, 1993). For a useful recent review, see Silbey (2005).
4. The way activists engage with, respond to, use, and reshape the law is an important issue that is largely

outside of my discussion in this article. For an engagement with legal globalization from below, see Santos and Rodrígues-Garavito (2005). I thank one of the anonymous reviewers for raising the issue and offering the citation.

5. The scant attention to the law by state theorists is all the more surprising because foundational texts in state theory, in particular the work of Nicos Poulantzas, were critically concerned with the law as a relatively autonomous region of the capitalist state. Poulantzas argued that the law remained central to the institutional materiality of the state as 'the code of organized public violence' (Poulantzas, 2000: 77). The law 'lays down things to be done, dictates positive obligations, and prescribes certain forms of discourse that may be addressed to the existing power' (p. 83), but it could also contain 'real rights of the dominated classes' and 'material concessions imposed on the dominant classes by popular struggle' (p. 84), that were irreducible to the interests of either capitalists or the state apparatus. Poulantzas even prefigured contemporary concerns about the relationship between law and the exception, arguing that 'state illegality is always inscribed in the legality which institutes it … Every juridical system includes illegality in the additional sense that gaps, blanks, or ''loopholes'' form an integral part of its discourse' (p. 84; see also Agamben, 1998, 2005).
6. In legal theory, the shift is best represented by H.L.A. Hart's (1961) famous critique of John L. Austin's equation of law with the command of the sovereign.
7. Geographers have been critical of Agamben's erasure of the different relations individuals and groups have to legal institutions (see Coleman and Grove, 2009). This is a valid and important criticism, but it also misses what is trenchant in Agamben, which is not that there are no historical or geographical differences in the ways individuals and populations get trapped in the sovereign ban. Rather, Agamben's argument is that violence, death, and force are the ever-present conditions of possibility for modern legal institutions, including but not limited to those within liberal legal systems, and that every legal order can quickly transform into a death machine justifying its actions in the name of its own salvation. The argument against this position is not to note the wide variety of mechanisms by which constituted political bodies kill, leave for dead, and indirectly murder, but to point to some constituted legal order or some theory of law that breaks the relationship between law, sovereignty, life, and death.
8. In addition to the immanence of law and space, Agamben (2009: 8–9) also makes clear that this type of ordering and management is genealogically linked to the economy in the classical sense of the *oikonomia*, the *nomos* governing, administering and managing the Greek household (*oikos*).
9. On the implicit spatiality of legal and political thought see Carlo Galli (2001). Eric Sheppard's (2005) explanation of the geographic assumptions within classical liberal arguments about free trade, as both a form of economic organization and a mode of government, could serve as a model for research into the legal thought and practice of neoliberal globalization.
10. On the exceptional status of the corporate charter, see Barkan (forthcoming). On the transformation of the corporation from a quasi-public institution to a private person within liberal law, see Barkan (2010).

References

Abbott K, Keohane R, Moravcsik A, Slaughter A-M, and Snidal D (2000) The concept of legalization. *International Organization* 54: 401–419.

Agamben G (1998) *Homo Sacer: Sovereign Power and Bare Life*, translated by Heller-Roazen D. Stanford, CA: Stanford University Press.

Agamben G (2005) *State of Exception*, translated by Attell K. Chicago: University of Chicago Press.

Agamben G (2009) *What is an Apparatus? And Other Essays*, translated by Kishik D and Pedatella S. Stanford, CA: Stanford University Press.

Agnew J (1994) The territorial trap: The geographical assumptions of international relations theory. *Review of International Political Economy* 1: 53–80.

Althusser L (1969) *For Marx*, translated by Brewster B. New York: Pantheon.

Althusser L and Balibar E (1997) *Reading 'Capital'*, translated by Brewster B. London: Verso.

Avi-Yonah R (2000) Globalization, tax competition and the fiscal crisis of the welfare state. *Harvard Law Review* 113: 1573–1676.

Avi-Yonah R (2003) National regulation of multinational enterprises: An essay on comity, extraterritoriality, and harmonization. *Columbia Journal of Transnational Law* 42: 5–34.

Barkan J (2009) Use beyond value: Giorgio Agamben and a critique of capitalism. *Rethinking Marxism* 21: 243–259.

Barkan J (2010) Liberal government and the corporate person. *Journal of Cultural Economy* 3: 53–68.

Barkan J (forthcoming) Roberto Esposito's political biology and corporate forms of life. *Law, Culture, and the Humanities*.

Barnett C (2005) The consolations of 'neoliberalism'. *Geoforum* 36: 7–12.

Blecher O, Martin L, Secor A, Simon S, and Wilson T (2008) Everywhere and nowhere: The exception and the topological challenge to geography. *Antipode* 40: 499–503.

Blomley N (1994) *Law, space, and the geographies of power.* New York: Guilford Press.

Blomley N (1998) Landscapes of property. *Law and Society Review* 32: 567–612.

Blomley N (2002) Mud for the land. *Public Culture* 14: 557–582.

Blomley N (2004) *Unsettling the City: Urban Land and the Politics of Property*. New York: Routledge.

Blomley N (2005) Remember property? *Progress in Human Geography* 29: 125–127.

Bourdieu P (1987) The force of law: Toward a sociology of the juridical field. *Hastings Law Journal* 38: 805–853.

Boyer K (2006) Reform and resistance: A consideration of space, scale and strategy in legal challenges to welfare reform. *Antipode* 38: 22–40.

Brenner N (1999) Beyond state-centrism? Space, territoriality and geographical scale in globalization studies. *Theory and Society* 28: 39–78.

Brenner N (2004) *New State Spaces: Urban Governance and the Rescaling of Statehood.* Oxford: Oxford University Press.

Brenner N and Theodore N (2002) Cities and the geographies of 'actually existing neoliberalism'. *Antipode* 34: 349–379.

Castree N (2006) From neoliberalism to neoliberalisation: Consolations, confusions, and necessary illusions. *Environment and Planning A* 38: 1–6.

Coleman M (2007) Book review – *State of Exception* by G Agamben. *Environment and Planning D: Society and Space* 25: 187–190.

Coleman M and Grove K (2009) Biopolitics, biopower, and the return of sovereignty. *Environment and Planning D: Society and Space* 27: 489–507.

Crane A, McWilliams A, Matten D, Moon J, and Siegel D (eds) (2008) *The Oxford Handbook of Corporate Social Responsibility*. Oxford: Oxford University Press.

Cutler AC (2001) Globalization, the rule of law, and the modern law merchant: Medieval or late capitalist associations? *Constellations* 8: 480–502.

Cutler AC (2003) *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy*. Cambridge: Cambridge University Press.

Dezalay Y and Garth B (1996) *Dealing in Virtue: International Commercial Arbitration and the Construction of a Transnational Legal Order*. Chicago: University of Chicago Press.

Dezalay Y and Garth B (2002a) *The Internationalization of Palace Wars: Lawyers, Economists and the Contest to Transform Latin American States*. Chicago: University of Chicago Press.

Dezalay Y and Garth B (eds) (2002b) *Global Prescriptions: The Production, Exportation, and Importation of a New Legal Orthodoxy*. Ann Arbor, MI: University of Michigan Press.

Dicken P (1994) Global-local tensions: Firms and states in the global space-economy. *Economic Geography* 70: 101–128.

Dicken P (2000) Places and flows: Situating international investment. In Clark G, Gertler M, and Feldman M (eds) *Handbook of Economic Geography*. Oxford: Oxford University Press, 275–291.

Dicken P (2003) *Global Shift: Reshaping the Global Economic Map in the 21st Century*, fourth edition. New York: Guilford Press.

Dicken P (2004) Geographers and 'globalization': (Yet) another missed boat? *Transactions of the Institute of British Geographers* 29: 5–26.

Dicken P, Kelly P, Olds K, and Yeung H (2001) Chains and networks, territories and scales: Towards a relation framework for analyzing the global economy. *Global Networks* 1: 89–112.

Dicken P, Peck J and Tickell A (1997) Unpacking the global. In Lee R and Wills J (eds) *Geographies of Economies*. London: Arnold, 158–166.

Ewick P and Silbey S (1998) *The Common Place of Law: Stories from Everyday Life*. Chicago: University of Chicago Press.

Faulconbridge J (2008) Negotiating cultures of work in transnational law firms. *Journal of Economic Geography* 8: 497–517.

Faulconbridge J and Muzio D (2007) Reinserting the professional into the study of globalizing professional service firms: The case of law. *Global Networks* 7: 249–270.

Ferguson J (2005) Seeing like an oil company. *American Anthropologist* 107: 377–382.

Fish S (1991) The law wishes to have a formal existence. In Sarat A and Kearns T (eds) *The Fate of Law*. Ann Arbor, MI: University of Michigan Press, 159–208.

Foucault M (1980) Truth and power. In Gordon C (ed.) *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*. New York: Pantheon, 109–133.

Foucault M (1990) *History of Sexuality, Volume 1: An Introduction*. New York: Vintage.

Foucault M (2008) *The Birth of Biopolitics: Lectures at the Collège de France, 1978–1979*, edited by Senellart M, translated by Burchell G. New York: Palgrave Macmillan.

Friedman L (1994) Is there a modern legal culture? *Ratio Juris* 7: 117–131.

Galli C (2001) *Espacios Políticos: La Edad Moderna y La Edad Global*, translated by Tula J. Buenos Aires: Ediciones Nueva Visión.

Goldstein J, Kahler M, Keohane R, and Slaughter AM (eds) (2000) Legalization and world politics – a special issue of *International Organization*. *International Organization* 54: 385–399.

Gregory D (2006) The black flag: Guantánamo Bay and the space of exception. *Geografiska Annaler* 88: 405–427.

Halliday T and Carruthers B (2007) The recursivity of law: Global norm making and national lawmaking in the globalization of corporate insolvency regimes. *American Journal of Sociology* 112: 1135–1202.

Hannah M (2006) Torture and the ticking bomb: The war on terrorism as a geographical imagination of power/knowledge. *Annals of the Association of American Geographers* 96: 622–640.

Hart HLA (1961) *The Concept of Law*. Oxford: Oxford University Press.

Harvey D (2005) *A Brief History of Neoliberalism*. Oxford: Oxford University Press.

Hunt A (1992) Foucault's expulsion of law: Toward a retrieval. *Law and Social Inquiry* 17: 1–38.

Hunt A and Wickham G (1994) *Foucault and Law: Towards a Sociology of Law as Governance*. London: Pluto.

Hussain N (2003) *The Jurisprudence of Emergency: Colonialism and the Rule of Law*. Ann Arbor, MI: University of Michigan Press.

Hussain N (2007) Beyond norm and exception: Guantánamo. *Critical Inquiry* 33: 734–753.

Jayasuriya K (2001) Globalizaiton, sovereignty, and the rule of law: From political to economic constitutionalism? *Constellations* 8: 442–460.

Jessop B (1990) Regulation theories in retrospect and prospect. *Economy and Society* 19: 153–216.

Jessop B (1995) The regulation approach, governance and post-Fordism: Alternative perspectives on economic and political change. *Economy and Society* 24: 307–333.

Jessop B (1997) Twenty years of the (Parisian) regulation approach: The paradox of success and failure at home and abroad. *New Political Economy* 2: 503–526.

Jessop B (2002) *The Future of the Capitalist State*. Cambridge: Polity Press.

Jessop B (2008) *State Power*. Cambridge: Polity Press.

Jessop B, Brenner N, and Jones M (2008) Theorizing sociospatial relations. *Environment and Planning D: Society and Space* 26: 389–401.

Jones JP III, Woodward K, and Marston S (2007) Situating flatness. *Transactions of the Institute of British Geographers* 32: 264–276.

Kelemen RD and Sibbitt E (2004) The globalization of American law. *International Organization* 58: 103–136.

Kingsbury B, Kirsch N, and Stewart R (2004) The emergence of global administrative law. *Law and Contemporary Problems* 68: 15–61.

Klein N (2007) *The Shock Doctrine: The Rise of Disaster Capitalism*. New York: Metropolitan Books.

Kunzlik P (2003) From local to global – the role of geographical isolation in shaping competition law. In Holder J and Harrison C (eds) *Law and geography*. Oxford: Oxford University Press, 483–519.

Larner W (2000) Neo-liberalism: Policy, ideology, governmentality. *Studies in Political Economy* 63: 5–25.

Larner W (2003) Neoliberalism? *Environment and Planning D: Society and Space* 21: 509–512.

Larner W and Le Heron R (2002) The spaces and subjects of a globalizing economy: A situated exploration of method. *Environment and Planning D: Society and Space* 20: 753–74.

Larner W and Walters W (2004) Globalization as governmentality. *Alternatives* 29: 495–514.

Leitner H, Sheppard E, and Sziarto K (2008) The spatiality of contentious politics. *Transactions of the Institute of British Geographers* 33: 157–72.

McCarthy J (2004) Privatizing the conditions of production: Trade agreements as neoliberal environmental governance. *Geoforum* 35: 327–341.

Mansfield B (2004) Neoliberalism in the oceans: 'Rationalization', property rights, and the commons question. *Geoforum* 35: 313–26.

Mansfield B (2005) Beyond rescaling: Reintegrating the 'national' as a dimension of scalar relations. *Progress in Human Geography* 29: 458–473.

Marston S, Jones JP III, and Woodward K (2005) Human geography without scale. *Transactions of the Institute of British Geographers* 30: 416–432.

Mattli W (2001) Private justice in a global economy: From litigation to arbitration. *International Organization* 55: 919–947.

Minca C (2005) The return of the camp. *Progress in Human Geography* 29: 405–412.

Minca C (2006) Giorgio Agamben and the new biopolitical *nomos*. *Geografiska Annaler* 88: 387–403.

Mitchell D (2003) *The Right to the City: Social Justice and the Fight for Public Space*. New York: Guilford Press.

Neocleous M (2006) The problem with normality: Taking exception to 'permanent emergency'. *Alternatives* 31: 191–213.

Peck J (2001) Neoliberalizing states: Thin policies/hard outcomes. *Progress in Human Geography* 25: 445–455.

Peck J (2004) Geography and public policy: Constructions of neoliberalism. *Progress in Human Geography* 28: 392–405.

Peck J and Tickell A (2002) Neoliberalizing space. *Antipode* 34: 380–404.

Poulantzas N (2000) *State, Power, Socialism*, translated by Camiller P. London: Verso Classics.

Santos B and Rodrígues-Garavito C (eds) (2005) *Law and Globalization from Below: Toward a Cosmopolitan Legality*. Cambridge: Cambridge University Press.

Scheuerman W (1999) Globalization and exceptional powers. *Radical Philosophy* 93: 14–23.

Scheuerman W (2000a) The economic state of emergency. *Cardozo Law Review* 21: 1869–1894.

Scheuerman W (2000b) Twilight of legality: Globalization and American democracy. *Global Society* 14: 53–78.

Scheuerman W (2004) *Liberal Democracy and the Social Acceleration of Time*. Baltimore, MD: The Johns Hopkins University Press.

Schmitt C (2003) *The* nomos *of the Earth: The international law of the* Jus Publicum Europaeum, translated by Ulmen GL. New York: Telos.

Shapiro M (1993) The globalization of law. *Indiana Journal of Global Legal Studies* 1: 37–64.

Sheppard E (2002) The spaces and times of globalization: Place, scale, networks, and positionality. *Economic Geography* 78: 307–330.

Sheppard E (2005) Constructing free trade: From Manchester boosterism to global management. *Transactions of the Institute of British Geographers* 30: 151–172.

Silbey S (2005) After legal consciousness. *Annual Review of Law and Social Science* 1: 323–368.

Slaughter A-M (2004) *A New World Order*. Princeton, NJ: Princeton University Press.

Sparke M (2005) *In the Space of Theory: Postfoundational Geographies of the Nation State*. Minneapolis, MN: University of Minnesota Press.

Terry W (2009) Working on the water: On legal space and seafarer protection in the cruise industry. *Economic Geography* 84: 463–482.

Teubner G (1997a) 'Global Bukowina': Legal pluralism in the world society. In Teubner G (ed.) *Global Law Without a State*. Aldershot: Dartmouth, 3–28.

Teubner G (ed.) (1997b) *Global Law Without a State*. Aldershot: Dartmouth.

Thompson EP (1975) *Whigs and Hunters: The Origins of the Black Act*. New York: Pantheon.

Tickell A and Peck J (1992) Accumulation, regulation and the geographies of post-Fordism: Missing links in regulationist research. *Progress in Human Geography* 16: 190–218.

Tickell A and Peck J (1995) Social regulation *after* Fordism: Regulation theory, neoliberalism and the global-local nexus. *Economy and Society* 24: 357–386.

Tomlins C (1993) *Law, Labor, and Ideology in the Early American Republic*. Cambridge: Cambridge University Press.

Trubek D, Dezalay Y, Buchanan R, and Davis J (1994) Global restructuring and the law: Studies of the internationalization of legal fields and the creation of transnational arenas. *Case Western Reserve Law Review* 44: 407–498.

Valverde M (2007) Theoretical and methodological issues in the study of legal knowledge practices. In Sarat A, Douglas L, and Umphrey MM (eds) *How Law Knows*. Stanford, CA: Stanford University Press, 72–92.

Varsanyi M (2008) Rescaling the 'alien', rescaling personhood: Neoliberalism, immigration, and the state. *Annals of the Association of American Geographers* 98: 877–896.

Wainwright J (2007) Spaces of resistance in Seattle and Cancún. In Leitner H, Peck J, and Sheppard E (eds) *Contesting Neoliberalism: Urban Frontiers*. New York: Guilford Press, 179–203.