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Sovereign Topologies: The Off-Shore and the Camp as Territories of Circulation¹

*“The importance of territoriality is shifting rather than simply diminishing”
(Peter Andreas)²*

I. Missing Territories in Liberal Logics of Circulation

Our conceptual vantage point is the notion of circulation as developed by Michel Foucault. In his lectures on *Territory, Population, Security* he described liberalism as a political rationality that posits the management of circulation as its predominant object.³ Governing circulation consists, according to Foucault, in manipulating a milieu for aleatory movements. This liberal ontology of circulation and its attending political rationalities have a planetary horizon, as Foucault says. In other words, they are not confined to the territory of the nation-state; rather, they eschew the territorial parameters of sovereign power, that is, the center from where power emanates and the circumscribed reach of the sovereign law.

If one assumes that Foucault has articulated a sturdy and flexible frame for understanding the current logic of liberal regimes of circulation – which we do –, one has to concede at the same moment that Foucault’s account of territory is seriously flawed. Territory does not simply vanish within these spaces of circulation. Much to the contrary, territory

¹ This outline for a working paper was written during our residency at Goldsmiths College in October 2009 as part of the ATACD (A Topological Approach to Cultural Dynamics) research project, founded by the European Union. We would like to thank Prof. Celia Lury for the invitation and inspiring discussions.

² Andreas, Peter (2000): “Introduction: The Wall after the Wall”, in: P. Andreas and T. Snyder (eds.): *The Wall Around the West: State Borders and Immigration Controls in North America and Europe*, Lanham: Rowman and Littlefield, p. 3

³ Cf. Foucault, Michel (2007): *Security, Territory, Population. Lectures at the College de France 1977-78*. Edited by Michel Senellart. Hampshire: Palgrave Macmillan, p 11ff. for a brief characterization of liberal rationality as “a new type of global calculation in governmental practice” cf. Foucault, Michel (2008): *The Birth of Biopolitics. Lectures at the College de France 1977-78*. Edited by Michel Senellart. Hampshire: Palgrave Macmillan.

changes its form and role, as we argue. One symptom of this shifting, but not vanishing role of territory is the proliferation of specific, territorially circumscribed enclaves as part and parcel of these liberal ontologies of circulation.⁴ Within these enclaves a different set of rules applies: they are differentiated from their issuing state as they are exempted from its existing laws. While they are all “political creatures” in this sense, they can be loosely differentiated according to their economic or political function.

In the political register, we experience the establishment of exceptional zones in which persons are denied fundamental rights. “Global war prisons”, as Judith Butler coined it, such as Guantanamo Bay or Abu Ghraib gained prominence in this respect, the same holds true for off-shore border zones in North Africa, that process quest from asylum seekers and immigrants that aim to access the European Union.⁵ But one might equally think of detention zones in airports or maybe even maritime zones.⁶ In the economic register, we find the multiplication of zones of exception as well.⁷ Since 2000, alone India has declared 128 specific economic zones, to which different sets of regulations in public planning, credit and labor apply. Among these zones are free ports, special economic zones, industrial free zones, enterprise zones, information processing zones, financial services zones, and commercial free zones. Often they have names such as Biopolis, Technopolis, Fusionpolis, Infracity, Technocity, etc. Globally, there are about 5000 of these zones. They are “a spatial form that has achieved global prominence”, as Jonathan Bach has shown.⁸

These zones are intensely territorial, yet they have little to do with state territory in the usual sense of the term. They demarcate a difference that unravels the straight divisions between inside and outside. The geographical mapping of state territory will not be able

⁴ Compare the short, but instructive overview in James Sidaway (2007): Enclave Space. A new Metageography of Development, in *Area* 39/3, pp. 331-339.

⁵ Butler, Judith (2004): “Indefinite Detention”, pp. 50-100 in Judith Butler, *Precarious Life. The Politics of Mourning and Violence*. London: Verso. For an analysis of the EU border regime cf. Walters, William and Haahr, Jens Henrik (2005): *Governing Europe. Discourse, Governmentality and European Integration*. London/New York: Routledge, pp. 91.

⁶ For the latter compare Budz, Michele (2009): “A Heterotopian Analysis of Maritime Refugee Incidents”, in: *International Political Sociology* 3, pp. 18-35.

⁷ Ong, Aiwha (2006): “Zoning Technologies in East Asia”, in, *Neoliberalism as Exception*.

⁸ Bach, Jonathan (2007) New Spatial Forms and Urban Imagination: Free Economic Zones at the Border of the Borderless World. Paper Presented at the International Studies Association Annual Meeting, March 3, 2007, p 1.

to register what these zones are about. As we would like to suggest in the following, these territorial zones need to be understood topologically, rather than topographically. The remainder of this research report is guided by two questions. Firstly, what kind of territorial construction are we dealing with? Secondly, what are the analytical guidelines for dissecting the sociological meaning of these zones? For answering the first question, we need to attend closely to the legal constitution of these zones. The inquiry guided by the second question refers us back to the Foucauldian concept of circulation, to Etienne Balibar's conception of political space and Saskia Sassen's understandings of territory, authority and rights.⁹

II. Topological Territorialities

Off-shores in their political and economic functions are in essence legal constructions. They are created by political acts that declare a certain territory to be subjected to a modified set of rules.¹⁰ It is a sovereign act in so far as it is foundational: it establishes the validity of rules within a circumscribed area authoritatively.

Yet, the relation between law and territory that create these zones cannot be properly understood within the old notions of territorial law. These older notions have a topographical matrix. National law applies to a clearly demarcated territorial unit of the nation state. Its validity ends where the next state's legal order claims its space. The Westphalian Order of States has enshrined this topographical nature of law and political territory that has become so dominant in the Western political tradition. We are all familiar with the maps of political geography, in which each part of the world is a colored patch, which designates the validity of different legal norms. Recently, this genuinely modern understanding of legal territories has been questioned. Debates on the global reach of humanitarian law or commercial law show that legal norms apply irrespective of

⁹ Foucault, M (2007): *Security, Territory, Population* I.c.; Balibar, Etienne (2009): "Europe as Borderland", in: *Environment and Planning D: Society and Space* 27, pp. 190-215; Sassen, Saskia (2006): *Territory, Authority, Rights. From Medieval to Global Assemblages*, Princeton/Oxford: Princeton University Press.

¹⁰ We follow the notion of territory as outlined in Sack, Robert (1986): *Human Territoriality. Its Theory and History*, Cambridge: Cambridge University Press; Delaney, David (2005): *Territory – A Short Introduction*, Malden: Blackwell.

national boundaries.¹¹ Yet, the emerging understanding of “global law without a state” (Gunther Teubner) in socio-legal studies neither captures the specific legal territoriality of the zones that are made in a “cocktail of exemptions”.¹² It erases the particularity of territory and depicts the global as a space of universal expansion. Therefore, both understandings – the Westphalian model and the territorially detached global model – entertain a geographical conception of legal space: for the first, it is a space that is topographically segmented, for the second these segmentations are overcome by geographical expansion.

For understanding the particular nature of these political and economic enclaves one needs a notion of territoriality that is no longer tied to this topographical meaning. Hence, we suggest understanding the territoriality of the abovementioned exceptional zones as topological: they are neither situated inside nor outside of the classical territory.¹³ Inside and outside are not opposites, they do not indicate independent, adjacent areas, but are folded into each other. This means, that the exceptional border zones must be conceived of as an outside situated in an inside. Law itself is the very instrument for creating a territorial space that belongs and does not belong at the same time:

“Law is crucial for establishing borders and border zones. (...) It can declare places under its jurisdiction to be foreign territory, expand government and policing beyond its territory, and use legal spatiality to exclude people from the essential requirements of the liberal regime, access to rights”.¹⁴

¹¹ Cf. Fischer-Lescano, Andreas and Teubner, Gunther (2004): “Regime Collisions. The Vain Search for Legal Unity in the Fragmentation of Global Law”, in: *Michigan Journal of International Law* 25, pp. 999-1046.

¹² Easterling, Kelly (2005): *Enduring Innocence. Global Architecture and Its Political Masquerades*, Cambridge, Mass: MIT Press, p. 114.

¹³ For different elaborations on the concept of topology in the humanities see the collection of texts in Günzel, Stephan (ed.) (2007): *Topologie. Zur Raumbeschreibung in den Kultur- und Medienwissenschaften*, Bielefeld: Transcript. Giorgio Agamben is probably most famous for conceptualizing the space of law in topological terms: “[W]e must learn to see these oppositions [private/public, exception/rule], not as ‘di-chotomies’ but as ‘di-polarities’, not substantial, but tensional. I mean that we need a logic of the field, as in physics, where it is impossible to draw a line clearly and separate two different substances. The polarity is present and acts at each point of the field. Then you may suddenly have zones of indecidability or indifference. The state of exception is one of those zones.” Agamben, Giorgio (2006): “An Interview with Giorgio Agamben by Ulrich Rauff”, in: *German Law Journal* 5, pp. 609-614. For further thoughts on legal topologies cf. Vaughan-Williams, Nick (2008): “Borders, Territory, Law”, in: *International Political Sociology* 2, pp. 322-338.

¹⁴ Basaran, Tugba (2008): “Security, Law, Borders: Spaces of Exclusion”, in: *International Political Sociology* 2, pp. 339-354, p. 342.

To sum up, these zones signify a new form of territoriality that is topological. It is a form of re-territorialization that takes place within the planetary horizon of liberal rationality. They are heterotopias in that they are characterized by their closed and differential relation to the outside, re-inscribed within the de-territorialized space of circulation. The parameters of boundedness and connectivity, the measures of proximity and distance are not geographical in these territories. Instead, geographical space is warped. The very meaning of context becomes hard to pin down. In the detention zone of the Airport Charles de Gaulle one is only a hair's breadth away from the kin that waits in the arrival hall and yet one is further away from them as one had been before the journey to Europe. The objects that pass through logistical cities are behaving as if they don't have any mass: they achieve unprecedented velocity and reach; but a few kilometers away none of these objects will ever appear in use.

III. Hypothesis

For analyzing the sociological importance of these enclaves it is not sufficient to understand their topological form. One needs to explore their meaning within a larger frame. As suggested in the beginning, Foucault's understanding of liberal regimes of circulation seems to be an apt starting point to uncover the function of these territorial thresholds. The following four aspects are important within this analysis.

1. As explained above, these territorial enclaves entertain a *differential relation to a dissimilar legal or normative space*. They will not exhibit their relevance if looked at as self-sufficient spaces. One very important task will therefore be to analyze the kind of differential relation they are constituted by. The "Global War Prison" and the financial off-shore live by the difference they put into operation and exhibit symbolically, but the kinds of differential relations they entertain and their modes of existence are not homologous.
2. Territorial enclaves or thresholds are heterotopias of circulation. They are part and parcel of a liberal governmentality that aims at regulating the flows of subjects,

objects and money.¹⁵ These heterotopias serve the *acceleration or retardation of flows*: they inhibit, attract or modulate and hence create mobilities of a certain kind. They use liberal means of incitement as well as illiberal means of incapacitation or detention.

3. Both types of enclaves, the political and economic ones, depend on techniques of control that are remarkably homologous. They use technologies of localization, identification and tracking that have their genealogy in military logistics: RFID chips, identity cards, biometric devices and digital information systems are widely employed.¹⁶
4. The political and economic enclaves reconfigure political space and its relation to rights and economy. Political space includes not only the constituent moment of power, as Balibar reminds us, but also forms of political subjectivity and a public sphere that negotiate these constituent moments. It needs to be analyzed how these enclaves assemble territoriality, political rights and authority in novel ways. Both seem to dim the potentiality of political subjectivity and the public contestation of order, while amplifying the police function of ordering. They create a form of displaced political sovereignty, that is an executive power, whose accountability and constitution is severed from sight and site.

¹⁵ William Walters highlights the “sorting function” of bordering: Walters, William (2006): “Border/Control”, in: *European Journal of Social Theory* 9, pp. 187-203.

¹⁶ Cf. for example Bonditti, Philippe (2004): “From Territorial Space to Networks: A Foucauldian Approach to the Implementation of Biometry”, in: *Alternatives* 29: 465-482; Amoore, Louise (2009): “Algorithmic War: Everyday Geographies in the War on Terror”, in *Antipode* 41, pp. 49-69.

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