



**Report of the Third
Annual T.M.C. Asser
Lecture 2017**

*delivered by Professor Saskia Sassen:
When the law cannot recognise
extreme injustice even if it affects
millions*

On 30 November 2017, professor Sassen addressed a full Academy Hall of the Peace Palace in the Hague at the prestigious Annual T.M.C. Asser Lecture of the Asser Institute. She turned her gaze towards the rise of extractive logics driving the current global economy. The extraction of resources and value from economies cause expulsions of people from various areas of the world and are too often neglected as a driver of global migration flows. Sassen emphasized that legal frameworks need to adapt in order to address the 'hidden', systemic roots of migration.

The rise of extractive logics

After the end of dominance of Keynesian economic models with the focus on commerce and mass consumption, extractive logics began to guide economic progress, Sassen said. The traditional banking sector, which used to be the backbone of economic development and which focused on microeconomics, began to be replaced by the high finance sector. The main difference between the two, in the view of Sassen, is that high finance flourishes by creating non-existent value out of debt, repackaging and reselling it by means of virtual instruments. In addition, high finance is part of a much wider phenomenon of extracting logics, which informs all kinds of interconnected economic sectors, ranging from high technology to land-ownership and extensive farming. What unites them is the drive to extract value from local environments without contributing to their long term progress.

Sassen pointed out a visible side effect of this complex economic system: the change in governance over territory. There now exist multiple territorialities within states or spanning across several ones. For example, financial centres in global cities occupy zones which function differently from the rest of the hosting countries. Creation of these financial zones is part of a massive physical operation where global companies extract value from the strategically important land within cities and fail to contribute much to the welfare of the rest of the hosting state. An accompanying effect is that land which serves the extractive logics is not governed by public powers in the same way as the rest of state territory. Thus, it is not only the territorial integrity that suffers, but also the application of rule of law.

Understanding change in complex systems

According to Sassen a crucial question is how to trace and capture this emerging phenomenon of extracting logics. Complex systems rarely change transparently and radically. The change usually occurs only partially and on a more fundamental level. For example, many of the traits of the Keynesian economic model remain present nowadays as well. Yet, if one is carefully attuned, the shift to a new organising logics can be traced.

Traditional sociological and economic models fail to capture the change, she said. The research cannot focus only on the effects of economic policies on stable scales of households, cities, regions or states. The economic and social vectors connecting and thus revealing the extracting logics need to be looked at through a wider context and through multiple scales at the same time. Sassen proposed employing 'tactical analytics'. By this she refers to the act of destabilizing established sociological and economic explanations to reveal what often remains obscured. In her view, this same move is necessary in legal scholarship and legal profession more widely. The heart of the traditional approach is so well established that it overpowers and distorts the view on practices which do not fit the dominant narrative. Thus, legal scholars and practitioners have to go to the world, observe practices, which are invisible to the formal legal framework and help to adjust the law accordingly.

Expulsions and a new type of migrant

Sassen connected extractive logics to examples of modern migration flows. As an effect of extracting logics, a third type of migrant is emerging, which does not fit within existing categories of migrants and refugees. This migrant could be seen as a kind of a refugee who is expelled from her living habitat through modes of economic development that are considered as overall positive for her country. For example, small rural land holders in Honduras have lost their land to large landowners. In one particular case, the World Bank even gave an award to a successful large landowner, who expropriated a number of small local farmers. Traditional economic models see this as a positive development since it shows the modernisation of local economies and registers as the growth of GDP.

More broadly, international institutions and governments of developed nations are promoting development policies, which can cause negative shifts in local economies of recipient countries. Thus, wealthy states should not consider migrants crossing their borders as a 'problem' not concerning them at all. Migrants are often migrating to states that have been involved in the development policies of their countries of origin. Yet, the analysis often focuses on superficial reasons for migration and not the deeper - systemic causes. Sassen illustrated this with the dominant analysis of the Rohingya crisis that focuses on violence and religious persecution. There is no denying that the violence and persecution are there. However, Sassen realized that the part of Myanmar where the tragedy is unfolding will host an important Chinese seaport. The army, which controls the economy in Myanmar, has first cleared and then appropriated the land on which Rohingyas used to live. Thus, they were expelled due to economic reasons, which again are not visible by focusing on the dominant narrative.

Next steps for international law

Sassen argued that this superficiality of analysis and the focus on immediate causal relations is clearly visible in law as well. Therefore, the legal concept of a refugee is in need of a serious change. The law needs to accept the fact that migrations are derivative. Indeed, they are arising in the larger context of global economic flows. Sassen concluded that the regulatory framework must change and take into account the wider picture and thus contemplate the connections between causes and effects of migration which are not only one step affairs.

About the Annual T.M.C. Asser Lecture

The [Annual T.M.C. Asser Lecture](#) has been established in honour of the Dutch jurist and Nobel Peace Prize Laureate, Tobias Michael Carel Asser (1838 - 1913), and his significant contributions to the development of public and private international law. The Annual Lecture builds on his vision and mission, it invites distinguished international scholars to take inspiration from Asser's idea of cultivating trust and respect through law and legal institutions, and to examine what it could mean in their area of expertise today.