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INTERDISCIPLINARY APPROACHES TO INTERNATIONAL ECONOMIC LAW: THE CULTURAL LIFE OF THINGS: ANTHROPOLOGICAL APPROACHES TO LAW AND SOCIETY IN CONDITIONS OF GLOBALIZATION

Rosemary J. Coombe*

Much of the ethnographic content of this paper is taken from and elaborated in an article that focuses more extensively on the ambiguities of racial politics and meanings in the global economy. See **Rosemary J. Coombe** and Paul Stoller, X Marks the Spot: Ambiguities of African Trading in the Commerce of the Black Public Sphere, 7 Public Culture 249 (1994).

SUMMARY:
… Anthropologists address historical developments such as the global restructuring of capital, post-Fordism, and the flexible accumulation of capital from perspectives that diverge substantially from those employed by lawyers, political scientists, or economists. … The global restructuring of capital and the intensified flows of capital, goods, imagery, people, and ideas has shaken the authority of nation states, cast cultural differences into sharp relief, and undermined the capacity of governments to deal with social welfare concerns. … The woman who purchases day care service without filling out social security forms, the "gypsy cab" driver who serves poor neighborhoods without benefit of a license, the moonlighting software consultant, the craftsman building furniture in an area not zoned for manufacturing activity, the immigrant woman reading pap smears or sewing teddy bears in a poorly lit suburban garage, and the unlicensed African street vendor are all participating in the burgeoning informal economy that characterizes a global city like New York. …

TEXT:
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Anthropologists address historical developments such as the global restructuring of capital, post-Fordism, and the flexible accumulation of capital from perspectives that diverge substantially from

those employed by lawyers, political scientists, or economists. As a law professor trained in anthropology, I will engage in a process of translation--to bring such differences into relief for a readership of international law specialists by delineating some of the more salient points of difference in the particularities of anthropological inquiry. Then I will engage in a characteristically anthropological exercise--the practice of ethnography--to cast light upon the cultural meaning of things--the local life of global forces. For the last two years I have been involved (together with anthropologist Paul Stoller) in ethnographic inquiry amongst Songhay migrants from Niger, who are part of a larger West African diaspora in Harlem. The
[*792] migrants we work with engage in unlicensed street vending; they are part of New York City's growing informal economy. n1

To provide political and economic context for understanding the activities of these vendors and the forces that have brought them to the streets of Harlem, the first half of the article will theoretically address macrostructural forces and the methodologies by which they are most fruitfully approached. The second half addresses an empirical example and incorporates more narrative dimensions. n2 Although I might say that I am "telling you a story," n3 the form adopted is more in the mode of postmodern montage--ironic juxtapositions and sardonic forms of pastiche n4 that allude to the normative ambiguities produced in sites where global forces reshape local realities. This shift in tone is deliberate; I will argue that the representation of law in contexts shaped by global flows of people, capital, information, imagery, and goods demands new forms of scholarly representation.

Scholars of law and society have long argued for new paradigms for imagining relationships between law and society, including the necessity to stop conceiving these terms as separate entities that require the exposition of relationship as the adequate term of address. n5 As disillusionment with instrumentalist, functionalist, and structuralist paradigms set
[*793] in, concerns with law's legitimating functions--its cultural rather than normative role in the social realities we recognize--were emphasized. Constitutive theories of law recognize law's productive power, as well as its prohibitory and sanctioning functions--shifting our attentions to the working of law in ever more improbable settings. n6 Focusing less exclusively upon formal institutions, law and society scholarship has begun to look more closely at law in everyday life, n7 in quotidian practices of struggle, n8 and in consciousness itself. n9 Such scholars ex- [*794] plore the fashions in which identities are forged in relation to law, in accommodation, and in resistance to it, n10 acknowledging that law interacts with other forms of discourse and sources of cultural meaning to construct and to contest identities, communities, and authorities. n11

If such processes have been recognized theoretically, I would assert that we still have a long way to go in representing their diversity. The economic, political, and social conditions of late capitalism further challenge our representational forms. In order to build upon these theoretical developments to cast new light upon contemporary socio-legal phenomena, we will have to engage in more novel and experimental forms of communication. As I will clarify in my conclusion, I advocate this spirit of creative sociological imagination, not simply in the name of "diversity," or to convey the voices of others (an impossibility in any case), but as the ethical and political responsibility of legal scholars in contemporary contexts characterized by cultural intersections, conflicts of meaning, and ambiguities of identity and community.

Anthropologists argue that the forces of global capitalism have created a situation of late modernity which is "decentered, fragmented, compressed, flexible, and refractive," n12 a context in which cultures can no longer be considered bounded, insulated, or discretely located in territori- [*795] al terms, n13 but must be understood within forces of an historical rela tionship spurred by world

capitalist developments. n14 In contemporary conditions of flexible capital accumulation this has meant addressing identities forged in transnational communities n15 by peoples engaged in ongoing "migratory circuits" n16 that traverse national borders and boundaries. In immigration studies, for example, we have witnessed a shift in scholarly focus from issues of successful "adaptation" to a new sociocultural milieu, to more interpretive questions about the tactics and cultural practices of peoples who simultaneously inhabit multiple cultural frames of reference. How do these people make creative and meaningful decisions from hybrid cultural resources in contexts which are not national but transnational? n17 [*796]

The global restructuring of capitalism has had profound social consequences at the local level that have legal ramifications requiring further study and research. Traditionally, legal scholars of globalization addressed such issues at the extension of human rights, the arbitration of international disputes, n18 the spread of the rule of law, n19 and the transformation of legal practice n20 --topics in which a growing homogenization of law and the tendency toward a greater similarity between legal [*797] regimes is often assumed. n21 Anthropologists, on the other hand, argue that the globalization of the economy and the interdependence of societies has not led to homogenization, but rather to a proliferation of new legalities and juridical sensibilities at the intersections of legal cultures and legal consciousness as new juridical norms are generated in their interstices. n22 In such contexts, new identities and communities are negotiated and contested.

My remarks here tend not towards the abstractions of global theorizing, but rather toward the local character, cultural meanings, and multiplicity of legal effects that we can point to as consequences of those processes that we refer to as "globalization." Anthropologists generally accept the proposition that the significance(s) of capitalist developments are best comprehended in terms of the cultural frames of reference within which they are encountered and accommodated, countered or resisted. n23 I shall, therefore, proceed upon a premise that is self-evident to anthropologists but may be counter-intuitive to international legal scholars: the premise that the "global" can only be understood locally and culturally.

I. GLOBAL CAPITAL RESTRUCTURING

The "global restructuring of capital" is a rather opaque phrase that attempts to encompass a multiplicity of phenomena--the emergence of a globally interconnected economy, the dispersion of manufacturing pro- [*798] duction to ever-shifting sites around the globe--largely from so-called First World to so-called Third World areas, the proliferation of exportprocessing zones in indebted areas facing World Bank and IMF pressure, the growth of international finance markets, the increasing feminization of the global manufacturing labor force, new migration patterns and the development of a global network of factories, service outlets, and capital investments. n24 These processes are managed from increasingly fewer places--those cities that dominate the flows of labor, goods, information, and capital that we call "the economy."

The global restructuring of capital and the intensified flows of capital, goods, imagery, people, and ideas has shaken the authority of nation states, cast cultural differences into sharp relief, and undermined the capacity of governments to deal with social welfare concerns. This raises new questions about the loci of power, the nature of accountability, and the authority of traditional communities and leaders, and creates crises of legitimacy and representation of unprecedented scope. n25 In such circumstances, we might ask whether and to what extent any singular legal regime is "constitutive." In postcolonial worlds, the juridical may be far more diffuse than we have heretofore

imagined. If diverse laws govern worlds of their own creation, people may occupy a number of juridically mediated worlds simultaneously. If Barbara Yngvesson's work in small town Massachusetts' courts suggests that law and fundamental cultural assumptions interpenetrate, n26 they may just as likely conflict in venues like immigrant garment factories in New Jersey, factory floors in export processing zones in the Philippines, or crack laboratories in rural Bolivia.

Globalization takes place; it is a process with spatial co-ordinates that links and relates particular places through flows of people, information, capital, goods and services. n27 Some of the more promising spaces from
[*799] which to assess the processes of globalization are the cities from which the global flows of capital, goods, and information are managed. The production and emergence of "informal economies" within these cities is a particularly "legal" problem to which legal scholars have only recently turned their attentions. n28 Understanding the significance of law in informal economies requires nuanced study of local meanings as these are produced in the practices of everyday life--ethnography, in short. Exploring some of the ambiguities of meaning in the shifting fields of significance that inform the experiences of West African street vendors in New York City's informal economy provides a sense of the "interjuridical" practices and consciousness of those who live within spaces of constraint and opportunity shaped by local legal responses to global forces.

The "flexible accumulation of capital"--however global a prœss--has realized itself locally, in transformations in the social, demographic, economic, and political structures of major cities. Saskia Sassen's work on "global cities," n29 shows how particular cities--cities
[*800] strategically positioned to co-ordinate and dominate global flows of information, people, capital, and things--have become centers for a vast international web of communications that manages a global network of factories, service outlets, and financial markets. The same cities have witnessed a vast proliferation of informal economic activities, an increase in illegal migrants, and growth in economic polarization.

It is important to stress that the international web of communications and investments, production and consumption, linked by telecommunications technologies that we call the economy, is not, in fact, global. It connects select parts of the globe while it simply spans others. As James Mittelman observes, in addition to increasing economic polarization within societies and regions, globalization has effectively marginalized and excluded millions of people. n30 For many, there is little hope of a new world order, upward mobility, or even the mixed blessings of employment in the export-oriented industrial jobs now available in many formerly Third World areas. n31 For many in these increasingly impoverished regions, migration is the only hope of economic viability. The Songhay men we know in New York are only some of the numerous African migrants coping with the costs of "structural adjustment" n32 at home by seizing economic opportunities afforded abroad.

The great waves of undocumented migration to the United States, despite massive legislative and police efforts to contain it, speaks volumes about the foolishness of dividing areas of law like immigration from other legal regimes governing trade, investment, labor standards, and military spending. The dominant view is that immigration is caused solely by poverty, unemployment, and overpopulation in the nations
[*801] from which people are arriving. n33 Policy makers tend to treat immigration as a domestic issue rather than an international one; either they focus on determining who can cross the border legally, who should be hunted out, and who deported. If policy makers recognize the international implications of immigration, they encourage foreign investment in the areas that people are coming from to alleviate those conditions that supposedly sparked the migration in the first instance. More

recent research tells another story--one that suggests that it is precisely those countries with which the United States has had the greatest involvement in global economic terms from which the vast majority of migrants arrive. The impetus for migration becomes stronger when there is more foreign investment in export-oriented manufacturing, a stronger military presence, which is another form of investment, and a greater flow of goods and information from the U.S. Such processes, which often destroy or displace domestic agricultural and manufacturing enterprises, create both displaced populations and build cultural and ideological ties between peoples in these regions and those in the US. Economic poverty and lack of opportunity do not, in themselves, seem to be major factors increasing migration. n34

Those areas that receive the greatest flows of immigrant labor are the same cities that have, paradoxically, become both the "hubs" for global networks of capital accumulation, and thus homes for new elites, and the sites of a massive increase in informal sector activity and home (if not shelter) for the multiply disenfranchised. To understand this, we need to understand the economic and social forces that produce "global cities" characterized by socioeconomic polarization.

II. SOCIAL POLARIZATION/DUAL CITIES

While the dispersion of production and plants across the globe speeds the decline of traditional manufacturing centers, the associated need for centralized management and control over these dispersed sites feeds the growth of global servicing centers. n35 This creates economic concentration in a limited number of cities that account for most of the international transactions, transactions in which lawyers, concentrated in ever [*802] bigger firms play central roles in negotiation, documentation, and implementation.

Cities like New York, London, and Tokyo, and now also Los Angeles, Toronto, and Sao Paolo play a strategic role in the new forms of accumulation based upon finance and the globalization of manufacturing. The sociopolitical forms through which this new economic regime is realized constitutes new class alignments, new social polarizations, and new norms of consumption. n36 Capitalism must invest its profits, and periodically faces "crises in over-accumulation." n37 In the last three decades, less and less investment of foreign capital has been targeted to primary industries or the production of goods and more and more investment has been made in speculation in the financial services industries and in the real estate market. The United States has been a major importer of capital--especially in its major cities like Los Angeles and New York, and it is in these cities that we see the most fundamental social dislocations as a consequence of the dominance of financial services and real estate markets as sites for investment. n38 Globalization and the dispersion of production has, paradoxically, led to massive amounts of concentration in economic control, surveillance, management and servicing of the global economy, centered in major metropolises where large service-providers congregate to serve those firms engaged in international transactions. It is only by understanding the social restructuring of these global cities, however, that we can see how such social dislocations "take place."

As so many service industries begin to congregate in those cities that increasingly contain the managerial capacity to oversee the global dispersal of production, transportation, and marketing, new elites are locally created. Advertising executives, accountants, stock brokers, investment dealers, real estate agents, bankers, foreign exchange dealers, and of course, lawyers in ever greater numbers, form the core of a new "informational elite." n39 Lawyers are clearly part of that class of workers who

benefit most from this new industrial complex. Like other members of such elites, lawyers have high incomes, although they may have little
[*803] control over the conditions in which they work n40 . But as high income workers, they have a consumption capacity and an orientation as consumers which distinguish them from the middle classes of earlier decades. A small class of workers, largely a white, male group of highskill service providers who structure, communicate, and process the flows upon which transnational capital relies, impose visible transformations in many cities, in the nature of commerce, consumption, and the occupation of space, often in processes of gentrification. n41

As this elite grows, an increasingly disenfranchised working class, working without benefits, health protection, or job security, concomitantly expands. In relative terms of protection, we can count among this group an army of female clerical workers--the working class of the global service economy; those without skills training who toil in downgraded manufacturing sectors; low skilled workers who provide the increasingly specialized consumer services that urban elites demand; and finally, a growing number of people who work outside of the formal labor force altogether, in the so-called informal economy. The global city is thus defined as a "dual city"--due to the increased social and economic polarization that defines it. The dichotomy is between a comparatively cohesive "core" group of professionals who are "hooked up" to the global corporate economy, and an ethnically and culturally diverse "periphery" that is increasingly unable to organize politically in order to influence the "core" upon which its limited forms of security depend. n42

New social cleavages emerge in these cities due to the same forces that attract capital and labor. As demands for specialized services for corporations engaged in the global economy draw professionally educated people into these cities, new markets for goods and services are created, and new sources of supply emerge to meet these demands. Lawyers or accountants, working long hours under great stress, are likely to be part of dual income partnerships. They have little time to perform domestic chores, from cooking to cleaning to laundry to dog walking, and are increasingly likely to have the disposable income to pay others to take on these tasks.
[*804]

Whereas economic growth in the post World War II era sustained the growth of a middle class, through capital-intensive investment in manufacturing, mass production and the consumption of standardized products (which in turn created conditions conducive to unionization and worker empowerment), n43 today's new urban elites demand gentrified housing, specialized products, small, full-service retail shops close to home, catered and pre-prepared foods, restaurants, and dry cleaning outlets. n44 These are labor-intensive rather than capital-intensive enterprises in which small scale production and subcontracting are obvious means of increasing profits.

Whereas middle class suburban growth in the Fordist period depended upon capital investments in land, road construction, automobiles, large supermarkets, mass outlets, and nationally advertised goods, all things which require a large workforce in large workplaces, today's professional elites create markets for goods and services produced in small scale enterprises--subcontractors, family enterprises, sweatshops and households. n45 Such low-wage workers are paid minimum wages, have no job security, and by virtue of their working conditions, are often isolated and unable to organize. These workers in turn, require goods and services, thus creating markets for lower priced goods than even the mass retail chains can provide. This contributes to even more enterprises that cannot or do not meet minimum wage or health and safety standards. The needs of low-wage workers are met by lower-waged workers, often immigrants, and increasingly women and children subject to patriarchal family restrictions and isolated by language barriers and fears of deportation.

III. INFORMAL SECTORS/THE OTHER ECONOMY

The massive increase in sub-contracting to small informal enterprises may be considered a by-product of the global restructuring of capital accumulation--the shift from Fordist to flexible regimes of capital accumulation--and the decline of a manufacturing dominated industrial complex in developed economies to a service-dominated economy serving
[*805] dispersed manufacturing operations elsewhere. The rise of the "informal economy" must be explained in this context. Whereas traditional theories of economic development predicted the decline of "informal enterprise," income-generating operations operating outside of formal regulatory frameworks, such operations increased in the last decade.

This is a particularly legal problem because an informal economy presupposes a formal economy--that is, the same goods and services being produced within the framework of the law. The term "informal sector" replaced more pejorative terms like the "black market" and the "underground economy." We have come to understand that what makes an economic activity informal is not its substance, the products produced or their validity, the character of its workers, or even the place in which it takes place, but the simple fact that "it is unregulated by the institutions of society, in a legal and social environment in which similar activities are regulated." n46 The woman who purchases day care service without filling out social security forms, the "gypsy cab" driver who serves poor neighborhoods without benefit of a license, the moonlighting software consultant, the craftsman building furniture in an area not zoned for manufacturing activity, the immigrant woman reading pap smears or sewing teddy bears in a poorly lit suburban garage, and the unlicensed African street vendor are all participating in the burgeoning informal economy that characterizes a global city like New York. These are all new forms of "illegality" produced by the global restructuring of capital.

The very definition of the informal sector presupposes a relationship to law as its fundamental category of reference. Only recently have legal scholars recognized its significance as a field of inquiry. Increasingly, such activities demand the attention of legal decision-makers and substantial ethical and political judgements. We have to make distinctions between flexibility in profit accumulation and outright exploitation, overregulation and necessary health and safety precautions, opportunities for immigrant enterprise and patriarchal oppression, the necessity of providing goods and services to those we have pushed outside of our social welfare systems, and the abuses of elites in positions to enforce degrading service contracts.

Lauren Benton argues that most analyses of the informal sector tend towards a structuralist dichotomy that divides legal structure and human
[*806] agency. n47 At best we find an advocacy of legal pluralism that simply multiplies levels of legal structure without attending either to the perceptions of those engaged in informal sector activities or to the way their practices transform the "legal" and "illegal," the formal and informal, and the way such spheres are locally understood. n48 The regulatory frameworks in which people operate are far more nuanced than an examination of legal rules, official regulations, and sanctioned norms suggests. People bring other knowledge and other disciplines to bear upon their productive activities in informal sectors. A Songhay vendor in Harlem, for example, negotiates his sales in a multiplicity of jural landscapes. He parleys his place on the sidewalk with other West African traders using Islamic precepts of propriety, he expresses a sense of entitlement to local business associations, and arbitrates terms of supply with Asian wholesalers. He also masters a new vernacular of race, space, politics, and property to articulate solidarity with and difference from local residents, who may see

him, because of the Asian goods he sells, as but a black mask for yet another incursion of Asian capital into the African American community. To understand informal economic activities in the late twentieth century, it is necessary to move beyond "legal pluralism" to consider the multiple frames of cultural reference from which an "interjuridical" consciousness may be forged. Legal anthropologists remind us of the need to study the cultures of law and legality in a fashion more fully attentive to global historical contexts. n49 We must find ways of acknowledging both the multiple sites in which legal consciousness is forged, and the mobile nature of its construction.

Although the informal economy is increasingly recognized to be structurally related to flexible regimes of global capital accumulation and not simply an arena of immigrant activity, migrants without documentation and few sources of economic livelihood are disproportionately represented there. This is certainly true of Songhay peoples who engage in multiple informal sector activities such as unlicensed street vending, the selling of "pirated" or "counterfeit" merchandise (in violation of copyright and trademark legislation and licensing agreements), gypsy cab operations, unlicensed import and export activities, and undocumented wage labor in subcontracting situations ungoverned by health and safety stan- [*807] dards. These are forms of "illegality" produced by regimes of power, regulatory activity, and bureaucratic inaction.

Legal and regulatory regimes play a constitutive role in the lives of Songhay migrants, influencing their expectations upon arrival, their daily movements, their sense of physical security, and their possibilities for economic livelihood. Representations and misrepresentations of American legal and regulatory regimes and the opportunities and obstacles they afford circulate amongst West Africans, travelling back and forth across the Atlantic, attracting some migrants and discouraging others. Their status as "with" or "without" papers shapes their sense of entitlement, their real and perceived abilities to travel and to voice opposition to local developments, the places in which they work and live, their capacities to return home to visit family, their right to obtain relevant permits and licenses, and to engage in commerce. The patterns and paths they forge in their daily lives, the spatial tactics and temporal strategies in which they engage, are creative interpretations, adaptations to, and evasions of the legal worlds they know and imagine.

Songhay migrants encounter the law, regulatory enforcement, bureaucratic laxity, official discretion, and state caprice on a daily basis as they negotiate municipal trade regulations, motor vehicle licensing requirements, housing officials, health inspectors, employment standards, and the criminal justice system. Less frequently, but no less importantly, in terms of the security of their livelihoods, Songhay vendors find themselves immersed and implicated in the intricacies of intellectual property laws and international trade regulation. Coming from rural desert villages, they must learn new cultural norms to make their way. As only one group among a multicultural West African commercial diaspora that trades in African American communities, they must literally learn new languages, while they become conversant with new cultural idioms of race, ethnicity, and class in the American context.

The Songhay situation in the African American context is instructive, for it enables us to attend to the complexities of interethnic relations in conditions of transnationalism. In marketing goods to an African American community that often fetishizes and reifies the imaginary Africa of an "invented tradition," n50 Songhay vendors find themselves catering to and resisting a stereotypical image of themselves that simultaneously lines their pockets and denies their cultural specificity. Indeed, as one [*808] black scholar pointed out, n51 the Songhay peoples were celebrated in African American history texts during the Black Power movement as one of Africa's great civilizations from which African Americans could claim descent; the knowledge that the vendor selling T-shirts on 125th street could claim this aristocratic ancestry would come to many local residents as an unwelcome surprise.

Moreover, the commodification of African American political history and manifestations of black pride is a process from which Songhay stand to benefit, although the Asian manufacture of these goods is a source of frustration and some resentment to their clientele. Songhay vendors quickly learn to read their market and the multicultural marketing signs that appeal to African Americans; local entrepreneurs are only too willing to engage a low-paid workforce to inscribe these insignia on cheap imported goods.

Although much of our empirical work with the Songhay will be conducted in New York City and the East Coast cities to which they have more recently dispersed, the project would be both incomplete and misleading if we were to restrict our inquiry to one country, nevertheless one site. For it is precisely the global character of the activities in which Songhay are engaged that is significant; it compels our travel to Niger and the export ports of West Africa. We know that Songhay are in continuous contact with family and business associates in Niger, and that the flow of goods and funds between the United States and Nigerian villages and cities is continuous. People travel regularly between Niger and New York City, the return portions of round-trip airline tickets are routinely traded between migrants, messages are sent back and forth by "courier," and informal import-export businesses have emerged. One trader travelled between the two countries on three occasions between August and December 1993, returning each time with new "lines" of leather goods expressly designed for the New York market by Hausa and Tuareg craftspeople. How are American tastes and expectations about Africa interpreted and translated into new economic opportunities for West African peoples by Songhay entrepreneurs in cities like Lagos and Niamey? We seek to understand Songhay migrant experience in a transnational, interethnic environment shaped by constraints and opportunities afforded by municipal, state, national, and international legal regimes. The project must be both interdisciplinary and transjurisdictional--a consideration of global restructuring "from the bottom up." The challenge is to remain attentive to the shifting and
[*809] contested meanings of legality, regulation, and signification in the lives of those who inhabit multiple regimes of power and knowledge in a world both ever more connected and ever more fragmented by the forces of contemporary capital. We hope thereby to add cultural specificity to studies of globalization by attending to the multiplicity of contexts in which processes of capital restructuring are given human dimension--a mode of inquiry that requires an ethnographic sensibility.

IV. ETHNOGRAPHIC SENSIBILITIES

The macrostructural approach to global capitalism, although necessary as a point of departure, is but an empty scaffold, incapable of doing justification to the complexities of the lives of those whose energies construct it. Anthropologists have demonstrated that modernity or postmodernity is not something that the West merely brings to and imposes on the rest; a history brought to peoples supposedly without it. n52 The incorporation of peoples into world economies is not an homogenizing process, but a complex and dialectical encounter between multiple cultural worlds which are all transformed by their mutual embrace. Histories of colonialism, evangelicalism, and imperialism in the nineteenth century suggest that the insignias of modernity were variously interpreted and redeployed by those who received them and gave them their own meanings and put them to their own purposes. n53 Moreover, the encounter with the Other, however defined, transformed the very knowledge and categories that a European society naturalized as human universals. n54

We have witnessed the rise of multiple modernities, fashioned with materials from diverse cultural lifeworlds. In Jean and John Comaroff's terms: "capitalism has always been shot through with its own

magicalities and forms of enchantment, all of which repay analysis." Capitalism, in short, is always a local and cultural process, even when
[*810] its reach is global and its aims all-encompassing. The idea that "Western Hegemony is Destiny" belies the incorrigible multiplicity of contemporary global systems. n55 This is no less true of the current stage of capital accumulation, which for all its vaunted flexibility, finds itself confronting the cultural realities of others with difficulty--spirit possessions on the factory floor, n56 blessings of money, and ritual sacrifices to gold mines, n57 or rumors that surround the trademarks on consumer goods. n58 Nor are such phenomena merely atavistic residues of some primitive lifestyle, destined to pass with "modernization." Instead, these are new practices, culturally meaningful forms of resistance and accommodation to new forms of wage labor, industrial discipline, and social control, with which capital must make some form of accommodation. They reflect the cultural agency and creative interpretive work that inevitably accompanies social transformation and dislocation.

We need the skills of anthropologists--ethnography, in short, not simply to understand 'others' locked in so-called "traditional" societies, but to understand ourselves in what we rather imperially call "the new world order." We must regard the worlds of trade and investment, the worlds of migration and production, no less than worlds of regulation and consumption, as proper fields for ethnographic inquiry. An ethnographic approach calls upon us to "ground subjective, culturally configured action in society and history." n59 In other words, one can do anthropology of national or international forces and formations, of diasporas and development banks. To quote the Comaroffs again: [*811]

Such systems only seem impersonal and unethnographic to those who would separate the subjective from the objective world, claiming the former for anthropology while leaving the latter to global theories. In fact, systems appear impersonal, and holistic analyses stultifying, only when we exclude from them all room for human maneuver, for ambivalence and historical indeterminacy--when we fail to acknowledge that meaning is always, to some extent, arbitrary and diffuse, that social life everywhere rests on the imperfect ability to reduce ambiguity and concentrate power. n60

The Comaroffs view the ethnographer as engaged in the work of finding shards of a cultural lifeworld and crafting these into a cosmos of significant intersection in wider fields of power. History, Gramsci reminds us, is made in the struggle among the diverse life worlds that coexist in given times and places. "Culture" in this view, is less a matter of consensus, than a matter of argument, "a confrontation of signs and practices along the fault lines of power," n61 that contains polyvalent, potentially contestable messages, images, and behaviors. Songhay traders negotiate their lives and livelihoods in a world of contested images and meanings, signs which express conflicting meanings about culture, race, and identity. Many of these signs are legally protected by regimes of copyright and trademark. As suggested in my earlier work, n62 such forms of intellectual property must be addressed culturally in the condition of postmodernity--in terms of the meanings they contain, constrain, and enable, and with heightened recognition of the social interests of
[*812] those who deploy them in cultural politics of struggle. n63 To this end, I will now 'switch registers' and look at the experiences of one particular group of Nigerian men in the informal economy of New York City. I will call this story:

V. "X" MARKS THE SPOT

Songhay peoples in West Africa have no indigenous script. There are, therefore, no sounds associated with the roman letter "X." But "X" does mark a spot in Songhay ritual. "X" is one sign for a crossroads, considered a point of power in the Songhay cosmos. It marks the spot of sacrifice during spirit possession rituals and is articulated as a target for power in sorcerers' rites. In these ceremonies, deities occupying the bodies of human mediums draw an "X" on the sand dance grounds. This marks the point at which the ritual priest will slit a chicken or a goat's throat. Blood soaks into the earth where "X" marks the spot; it nourishes the land, rendering it fertile for the planting season. In sorcerers' rites "X" also serves as a point of articulation. When sorcerers prepare kusu, the food of power, they mark an "X" on the dirt floor of their huts, upon which a clay pot will sit. Only then will power infuse the millet paste and enable it to do its work--to make one impervious to sorcerous attack, and reinforce the sorcerer's embodied integrity. n64

When social contexts shift, however, cultural significations may be transformed. Anthropological considerations of Songhay worlds can no longer be confined, if ever they could be, to a bounded geographical or cultural area. Songhay people have never limited their own lives to anything we could call Songhay "country." Although most Songhay people today live in northeastern Mali, western Niger, and northern Benin, they, like most West African peoples of the Sahel, have a longstanding tradition of migrations. Indigenous cultural forms were transformed to interpret and incorporate these new domains of transcultural experience. New deities in the Songhay spirit pantheon ap- [*813] peared-- horrific spirits that parodied the forms of wage labor and the excesses of government with which colonial regimes made the Songhay all too familiar. n65 Songhay reenchanted the rationalized forces of colonial power--satirizing the iron cages in which they found themselves. Despite the military pomp and circumstance with which they comport themselves, however, these blustering deities are ultimately compelled to pay homage to Dongo, the Songhay god of thunder who is attracted to the "X" that marks the spot of their sacrifices. n66

Local practices of Songhay spirit possession do not operate in sociocultural isolation; they are always juxtaposed to national practices of Islam. Islam is the state religion in Niger, which means that the state officially discourages, but more often regulates, publicly performed nonIslamic ritual activities. Spirit possession priests must obtain permits from the local police if they want to stage a spirit possession ceremony, but sorcery is seldom acknowledged, and certainly never countenanced by official authorities, at least in their official capacities. The spots that "X" marks are thus legally ambiguous ones. Most Songhay spirit mediums and priests are also practicing Muslims who submit to Allah five times a day. Indeed, one of the spirit families of the Songhay pantheon consists of Muslim clerics, who, when in the bodies of human mediums, settle local disputes.

The globalization of the economy has encouraged Songhay men to expand their migratory horizons to Europe, and, more recently, North America. Global communications and transportation systems enable information (and misinformation) about the opportunities available in North American cities to travel to even the smallest and most remote villages in the Sahel, prompting ambitious youth to leave desert compounds to seek their fortunes.

In Harlem from 1992 until 1994 "X" marked a very different kind of spot. It was a mark that defined the space occupied by Songhay traders who sat behind small aluminum card tables "no more than two feet from the curb" as stipulated by local vending regulations. These tables lined 125th street where it meets Lennox Avenue and becomes known as Malcolm X Boulevard --a site often celebrated as the crossroads of African culture in the Americas. "X" was no longer the point at which the powers of the cosmos were contained and compelled for social purposes. Instead, it was a nexus; it marked a complex intersection of so- [*814] cial, political, and economic spaces shaped by global forces of

capital restructuring and the local legal regimes which attempt to order them.

Since the mid-1970s, New York City has become an ever more frequent destination for transnational migrants. n67 Prior to the 1980's, the number of West African immigrants to New York, however, was insignificant. The first small contingent of Senegalese arrived in New York City in the early 1980s; a few of them set up tables to vend goods along Fifth Avenue in midtown Manhattan. Only two Senegalese had obtained vending licenses from New York City's Consumer Affairs Board in 1982. They quickly discovered the monetary and bureaucratic headaches associated with regulatory compliance. City officials routinely harassed them, repeatedly fining them for insignificant infractions. Having one's table a few inches too close to thecurb resulted in fines of $ 300. After one year of operation, each of the two licensees had amassed fines of $ 11,000. n68 Other Senegalese simply remained unlicensed, adding to New York's burgeoning informal economy. These traders quickly discovered which times of the day and month city officials would be least likely to accost them and impound their merchandise. Some Senegalese positioned themselves as translators, thereby assisting the local court system to prosecute their compatriots. Simultaneously, they contributed to the coffers of the most important Senegalese Muslim brotherhood, the Mourides, which subsidized the legal costs of their more unlucky brethren. By the mid 1980's Senegalese vendors had become a visible presence in midtown Manhattan. Midtown merchants complained that "Africans"--they did not distinguish amongst them-- constituted a blight that diminished the sales of rent-paying tenants. In 1985 the Fifth Avenue Merchants Association, headed by Donald Trump, asked Mayor Koch to crackdown on the unlicensed merchants:

The Fifth Avenue Merchants Association . . . accused the Senegalese of ruining the urban landscape and stealing their merchandise (which seems surprising given that whereas the Senegalese sell "cashmere" scarves for $ 5.00, one must pay $ 300 for real cashmere scarves in the Fifth Avenue boutiques). According to the New York Times, the Association gave money to police "to clean up The Avenue"--that is to say to expel the
[*815] Senegalese from New York streets. They were arrested and jailed in great numbers. n69

The Senegalese have since become the aristocracy of African merchants in the city, successfully pressing their rights, they continue to dominate the street markets that cater to an affluent clientele. Other, more recent West African migrants have been less fortunate. With the Senegalese closely controlling Fifth Avenue, newer arrivals from Mali and Niger set up tables in Harlem, where they sold beads, fabric, leather goods, and "African" art. Africans selling "African pride" to African Americans became a visible, and, in touristic terms, a "vibrant" presence at the "People's Market" in Harlem.

Most Songhay men came to America expecting to find wage-paying jobs that would enable them to send regular remittances home. They discovered no space for themselves in New York City's formal economy. Most of them spoke little, if any, English and many of them were illiterate. All of them were, at that time, undocumented, overstaying the terms of their tourist visas. In the summer of 1992, "X" marked a site of value, irony, and contention for Songhay traders and for the African American community within which they operated. Although the sale of Malcolm X goods is no longer so ubiquitous in Harlem, his ichnographic presence continues to mark contradictions and ambiguities that are salient to understanding the complexities of local racial politics.

"X" marks one of the largest merchandising agreements and most controversial marketing campaigns

of the twentieth century. The image, likeness, name, and meaning of Malcolm X in the last decade has been an ongoing site of political and legal controversy. The choice of Spike Lee to direct the film conveying the life story of the late black nationalist fueled ongoing disputes over his legacy; it also consolidated those forces promoting the commodification of his persona. n70 As Newsweek declared in 1991:

The furor is a testament to the ongoing importance of Malcolm as a symbol in the black political struggle. Deeply disillusioned with the set [*816] backs of the Reagan and Bush years, many African Americans find Malcolm's message of black self-determination more relevant than ever. A new generation, from the rap community to the academy has reclaimed him as the pre-eminent icon of black pride. In the past three years, sales of "The Autobiography of Malcolm X" have increased 300 percent, and four of his books published by Pathfinder Press have seen a ninefold increase in sales between 1986 and 1991. n71

Dr. Betty Shabazz, Malcolm X's widow began the first round of legal battles with a copyright infringement suit against publishers of a book, Malcolm X for Beginners. n72 Accused of violating Malcolm's own ethics in attacking wider access to progressive black political ideas, Shabazz downplayed her financial interest and shifted emphasis to the propriety of acknowledging and affirming her copyright as proper guardian of the Malcolm X legacy. Dr. Shabazz was less reticent about asserting her proprietary rights when the publicity for the Warner Bros. film accelerated the value of the Malcolm X persona. In October, 1992, Forbes Magazine stated that "retail sales of licensed Malcolm X products, all emblazoned with a large 'X' could reach $ 100 million this year. The estate would then collect as much as $ 3 million in royalties." n73 A licensing manager was retained when Shabazz began noticing the proliferation of "X" merchandise on the sidewalks of New York City. By that time, Forbes counted 35 licensees under contract, and 70 more in negotiations. n74 One of the more protracted negotiations was the ongoing work of determining the position of Spike Lee's own merchandising company, "40 Acres and a Mule," whose efforts began the retail trade. His use of the "X" was called a blatant trademark infringement by the estate, a legally questionable proposition, but one that raised the stakes, multiplied the legal rights at issue, and compelled a negotiated settlement. Meanwhile, worldwide sales of unlicensed "X" merchandise were estimated in the range of $ 20 million for 1992. n75

Dozens of parties and a phalanx of highly paid legal talent were engaged in the negotiation of the copyright, trademark, publicity rights, and merchandising rights to the ichnographic presence of Malcolm X as these were multiplied, divided up, and licensed out. The unabashed [*817] conflation of "X" as a political symbol with "X" as an internationally circulating property with immense commercial value has created ambivalence amongst many African Americans who see the proliferation of Malcolm X's ichnographic presence as concomitantly diluting its political import.

To understand the reemergence of Malcolm we begin by considering his iconic power. In these hostile times, many African Americans are hungry for an honorable sanctuary, and Black spirit fits the bill . . . But are the buyers, African American or not, angry or not, Black believers? Not necessarily, because Black spirit has never meant one thing, or anything concrete, which is its great power and failure. Spirit has no spine; it bends easily to the will of its buyer. Black spirit has many faces--it can mean anything from "angry" to "kindhearted" to "cool." Even for those who purchase Malcolm with the

spirit's current militancy in mind, the meaning of the possession is very uncertain . . . . Doesn't American spirit, backed by ideologies such as consumerism, have the upper hand? So whom does the icon serve most? As used today, Malcolm the icon is principally a form of Black mask. Like dreadlocks and kente cloth, Malcolm X worn on a T-shirt is an African American cultural form; as such it "speaks" African American culture. But it is also a political signifier--it is also an icon of Blackness, and consequently, a Black mask. No matter how much disagreement there is among African Americans about Malcolm X . . . you're talking Black when you wear these things. n76

In 1992, Songhay traders benefitted from the publicity of the Warner Brothers' film and its spin-off industries. They bought and sold unlicensed Malcolm X hats and clothing--those goods intellectual property lawyers describe as counterfeit, pirated, or knockoff merchandise. The New York Times recently referred to many of these goods as "cyberfakes," n77 alluding to new digital modes of copyright and trademark infringement which enable computers to quickly and accurately copy the logos, labels, and tags of merchandise bearing famous marks and imprint the same insignia of authenticity onto other, allegedly inferior merchandise. The merchandise itself is often produced in Asia or in the many garment shops and illegal factories that have sprung up in Chinatown and New Jersey with the expansion of the informal sector. Those who mark these goods may well be immigrants, indentured to
[*818] those who own the increasingly expensive and increasingly productive technology with which "the real thing" is imitated. Those who make and sell such goods risk fines, searches, and seizures. They are periodically raided by zealous FBI agents--contemporary watchguards of the increasingly corporate cultural worlds of postmodernity. n78

For Songhay vendors, the idea that a man's name might be exclusively controlled as a source of continuous revenue, is both foreign and strange. The mark of the "X" might call forth propitious powers if human rituals are properly performed, but in North America "X" returns a steady flow of royalties into the coffers of those whose "No Trespassing" signs look most likely to be legally legitimated. For Malcolm Little himself, "X" re-named his unknown African family of origin--it replaced the name of the slavemaster. n79 Capitalizing upon the market for things African, and the heightened awareness of Islam, Songhay found themselves the perfect props for peddling Malcolm X merchandise--unknown Muslim Africans conveying signs of a reified and alienated Islam, newly revalued in the African American community where they found themselves.

Michael Dyson suggests that the resurgent racism of American society, the increased desperation of the black ghetto poor, and attacks on black cultural initiatives, "precipitate the iconization of figures who embody the strongest gestures of resistance to white racism":

The destructive effects of gentrification, economic crisis, social dislocation, the expansion of corporate privilege, and the development of underground political economies, along with the violence and criminality they breed mean that X is even more a precious symbol of the self-discipline, self-esteem, and moral leadership necessary to combat the spiritual and economic corruption of poor black communities. n80

The self-discipline, self-esteem, and moral leadership that Islam provides the Songhay in a foreign environment offers these black men little safety in the streets. In the summer of 1992 Songhay traders--unknown Africans purveying the commodified sign of black Muslim resistance--turned away from their tables, opened the street's fire hydrants, and performed ritual ablutions prior to afternoon prayer. During these
[*819] ritual acts, they found themselves vulnerable to theft, insult, and assault. For months they were laughed at and their Muslim piety was denigrated.

Asked what they knew about Malcolm X, some Songhay claimed he was a former neighborhood resident, whereas others had heard about his "particular" (and peculiar) variant of Islam. But everyone in the group of thirty merchants--pragmatists all--recognized that Malcolm X marked a site of economic opportunity under the street sign that bore his name. In 1993 Malcolm X was also the political celebrity whose angry voice boomed from a video played constantly on a television mounted upon a nearby car--another of the famous that mark the multiple facades that figure as "America" in Songhay imagination.

Songhay vendors know from their cultural experience that "X," the crossroads, marks a point of power. They know that points of power are spaces both of opportunity and danger, sources of potential security and inextricable violence. When they ventured into the "bush" (this is how they described Indianapolis, Oklahoma City, and Dallas), their familiarity with Harlem, and their commercial base on Malcolm X Boulevard provided them with a source of cultural legitimacy in black America, a form of goodwill and security for their national operations. X then, also operated for the Songhay vendors as a form of trademark--a sign that symbolically carried established custom and goodwill--in a wider African American market. Still, many of them were mugged, some have been hospitalized, and at least one badly beaten merchant returned to Niger, leaving the space that "X" had marked for him to a more determined compatriot. Others have had their economic security threatened by local authorities who periodically confiscate their merchandise. Most simply accept police actions, raids, and fines as the price of doing business at the crossroads that "X" sites for them in America. Neither the vendors nor the police seriously believed that the periodic "crackdowns" on "scofflaws" (the new city administration's term for those who run informal enterprises) would curtail African vending. The Harlem Street Vendor's Association sometimes had advance notice of police actions and sent word to the vending community. The police, however, did go through the motions--the "new penology" n81 marking the sidewalks of
[*820] the inner city. n82

Ironically, it was Malcolm's "X" that marked yet another contested site in the autumn of 1994--the empty lot on 116th street to which municipal authorities, allegedly with the support of the Harlem Business Alliance, threatened to move all the street vendors. The lot was owned by the Masjid Malcolm Shabazz, the Islamic group that purports to maintain guardianship of Malcolm's name and principles after his departure from the Nation of Islam. Merchants on 125th street had convinced the city administration that the unlicensed street vendors were an eyesore and a nuisance, congesting the streets, creating garbage, and interfering with legitimate business activities. The 125th Street Vendor's Association, supported by the Nation of Islam (who now purported to act as advisors to potentially displaced vendors) accused the city and the business community of racism--yet another example of nonblack businesses profiting from their position in African American neighborhoods--blocking blacks from enjoying the benefits of economic opportunities afforded in their own communities. n83

On October 17, 1994, over five hundred city police swarmed into the former People's Market to arrest any vendors attempting to set up their tables there. Many saw this police action as a "crude flexing of political muscle" n84 that deprived poor vendors of meager jobs and destroyed the
[*821] tourist potential of this Harlem street. Twenty-two vendors were arrested in the fighting that broke out as police on horseback with clubs broke apart the crowds that gathered to protest the police action. Vendors were urged to move their sales to the empty lot nine blocks away. Originally sited for the erection of a new mosque, the construction of an Islamic educational center was postponed due to a lack of funds. In partnership with the Giuliani administration, the Masjid Malcolm Shabazz will now fund the mosque with municipally imposed license fees--taken from the former street vendors. In exchange for "managing" the site, the Masjid will receive 70% of the license fees for community purposes. Whether or not African vendors will be seen as sufficiently part of the black community to be eligible to receive local social benefits remains to be seen. The move is a temporary one; once sufficient fees are collected, construction of the school will continue and the vendors will once again be removed. In any case, these barren asphalt lots will accommodate only 400 vendors but over 1,000 were estimated to have been displaced. n85 Unable to afford the exorbitant fees, few Songhay vendors moved to the new site, shifting their wares to new locations in shopping malls and other city streets. Rents elsewhere proved even more exorbitant, and some Songhay men reluctantly returned to the empty Harlem lot, now nominated the Shabazz International Plaza. Others moved into factories and several returned to Niger.

In the fall of 1994, the former People's Market was occupied by picketers boycotting white and Asian-owned businesses, the ailing businesses themselves, and by a hundred police officers manning the street until cold weather forced the picketers to abandon their protest. The tenuous social links forged between Africans and between African groups and African American residents have been ripped asunder. New accommodations will no doubt be forged between vendors and the resident community, but the relationship will be fundamentally altered. No longer will a host-guest relationship, (tense though it undoubtedly was), prevail; one segment of the African American community has positioned itself to expropriate surplus value and control the conditions of Africans' tenure in the black community.

VI. THE SPACE(S) OF TRADEMARK

Malcolm left the brothers their first revolutionary pop icon . . . . And when you dealing with American superstars, baby, all you need to know
[*822] is he lived fast and died young, a martyr who went out in a blaze of glory . . . . We celebrate the death of Malcolm X for what it is--the birth of a new black god. X is dead, long live X. He's like the Elvis of black pop politics --a real piece of Afro-Americana. That's why Spike's X logo is branded with an American flag. Malcolm couldn't have happened anywhere else. n86

The contradiction raises the very question Public Enemy raised by placing Malcolm on the dollar bill: Which spirit does the icon serve most? . . . Both Public Enemy and Malcolm X may be oppositional icons in American cultural discourse, and signifiers for sundry spirits, but they are largely irrelevant to the politics of our communities, Black or American. Malcolm ended up saying he wanted to organize Black people, but he never found an organizing philosophy to make it happen. This is still true of Black political discourse. We do have signs, but so many of them fail as reliable evidence of a politics opposed to the oppression of Black people. n87

16

Today Songhay merchants vend two forms of goods: unmarked goods that represent a reified Africana and counterfeit trademarked goods for an African American market. The African goods--ersatz kente cloth scarves, combs, trade beads, leather goods and the occasional sculpture --are unmarked by authorial signature or point of origin. Men with the necessary papers go back to Mali, Niger, and Ivory Coast and have goods specially made for Harlem and the Black Expo circuit. Knowing what forms "Africa" must take for an African American market, they produce generic items that are marked neither by artist, village, cultural area nor region. Their distinction lies in the items being "African," a monolithic cultural whole in the Afrocentric imaginary that Songhay recognize as providing their own space in the American market. Meanwhile, the "American" goods they sell are largely manufactured in Asia and are all marked with the names of the famous--Ralph Lauren, Polo, Hugo Boss, Guess, Fila and dozens of sports team logos. The goods themselves are indistinguishable: baseball caps and knit hats, sweatshirts and other cheaply manufactured goods, whose only allure is the fame of their trademark. These are the goods Songhay vendors know as the "American" merchandise that sells most quickly in African American communities.

Songhay vendors find themselves catering to and resisting a stereotypical image of themselves (as Africans they say that they are seen as
[*823] more "primitive" intellectually by many of their clientele). The Songhay vendors find that this image both benefits them economically and denies their cultural specificity. However, knowing something about the history and plight of African Americans, a few Songhay-speaking migrants accept the fact that the Africa African Americans "need" is not the Africa they know. In the context of the Harlem market, they were prepared to renounce recognition of the complexities of the Africa from which they came, and to make a gift of the more unencumbered significance it has acquired in the local community. Most of them easily engage in marketing the fetishes of an imaginary Africa and the signs of a utopian America, learning to read their market, media culture, and the marks of fame that appeal to African Americans.

Although the significance of commodities in contemporary politics is often asserted, n88 the specificities of the cultural contexts in which they figure and the material details of such politics are seldom explored. For example, the popularity of goods that ostentatiously bear their trademarks in poor black and latino neighborhoods is often remarked upon, but we have little knowledge of the social spheres of cultural politics in which they function. Regina Austin suggests that black consumption, rather than simply an experience of "alienation" or a form of cultural "resistance," needs to be understood both as communicating a recognition of black positioning in the market and in terms of its connections to relations of production in African American communities. n89

Only with a strong ethnic identity and sense of mutual dependence and trust can blacks harness consumption as an exercise of economic power. "There is nothing wrong with consciously connecting culture to consumption and production if the goal is to increase the availability of employment among blacks and the wealth controlled by black institutions and firms that are accountable to black people. n90

[*824]

Some trademarks have become so popular amongst minority youth that their 'owners' have protested

any association of their marks with inner-city black youth a nd, by implication, crime. In parts of the United States, local law enforcement officials use particular brand names as indicia of gang membership; wearing such goods becomes the basis for refusing youth entry into public places of amusement. n91 In New York City, newspapers report the trademarks on clothing worn by young black men upon arrest, n92 and the trademarks on items requested by minority youth in a guns-for-merchandise exchange sponsored by a chain of national toy stores. n93 Street gangs often express their solidarity by wearing the distinctive color combination and logos of professional sports teams. n94

Trademarks, however, do not speak with a single voice. They signify differently in diverse contexts. In 1993, for example, we witnessed a proliferation of TimberlandRegistered goods in inner city neighborhoods that greatly improved the company's sales. n95 The company, however, reacted to the growing publicity of their mark by reducing distribution networks to avoid inner city venues. n96 This strategy might be related to the unique demands made upon them. When an inner city market becomes publicly known, it is sometimes suggested that manufacturers benefitting from such sales put some of their revenue back into social programs for those youth from whom they profit (and TimberlandRegistered did initiate an anti-racism publicity campaign). The corporate fear of "dilution," n97 however, is also apparent. By the time today's fashion trend is dead and buried in hip hop culture, tomorrow's middle class Americans may have indelibly associated the mark with a racialized "other." Such examples suggest that the trademark figures in a fashion that complicates categories of commerce and politics in racial politics. But when a Muslim cleric from a desert village extends spiritual solace to a local homeless
[*825] man, and both are wearing a TimberlandRegistered cap in the jungle of asphalt and concrete they know as America, the promise of America that TimberlandRegistered marks is betrayed and the hypocrisy of attempting to maintain the purity of the commodity/form is exposed.

Within the inner city the trademarks of such companies become obvious targets for bootleggers. The allure of TimberlandRegistered (whose boots cost over a hundred dollars, inducing one youth to trade in his revolver to obtain a pair) n98 can be acquired for the price of a knit cap with the company logo richly embroidered in gold thread across its brim. The insignias of corporate ownership loom large on the streets of Harlem. As Austin suggests, however, there are opportunities for blacks to be afforded by local tastes for the trademark form; n99 it may be taken up and countered from within. In the fall of 1993 Songhay vendors had another hat upon their tables. This one was burdened by a shiny metal plate screwed down at four corners on which the signature "Karl Kani" was engraved. The attached tag read:

INSPIRED BY THE VITALITY OF THE STREETS OF BROOKLYN, NEW YORK KARL KANI THE YOUNG AFRICAN-AMERICAN OWNER/DESIGNER OF KARL KANI JEANS ENCOURAGES YOU TO FOLLOW YOUR DREAMS TO ACCOMPLISH YOUR GOALS. WEAR THE CLOTHING THAT REPRESENTS THE KNOWLEDGE OF AFRICAN-AMERICAN CREATIVITY AND DETERMINATION. RECOGNIZE THE SIGNATURE THAT SYMBOLIZES AFRICAN-AMERICAN UNITY AND PRIDE . . . PEACE, KARL KANI.

The adoption of the trademark to proclaim a politics of pride from within the community promises an affirmation and embrace to black consumers that contrasts with the withdrawal, betrayal, and rebuke that too often characterize corporate responses to a trademark's popularity within African American communities.

VII. "BLACK MASKS"

We seek, as Malcolm did, to name ourselves, and we begin, as Malcolm did, with the Black mask given us. We take the baton from Malcolm: we take our humanity for granted, and we realize that our community is made up of people of all sorts of colors, genders, classes, ethnicities, sexualities, etc. We have always known that African Americans weren't the only niggers on this earth, and now we invite all other people who
[*826] are oppressed to join us . . . We will seize the day and make a new Blackness. n100

The blackness of the black community is potentially challenged and transformed by the questions posed by the uninvited presence of Africans in African American neighborhoods. Is their participation in commerce a part of or outside of the American black cultural politics? Are they blacks to be included or excluded by other blacks who can more authentically claim the integrity of African American culture as their own? To whom should such questions be addressed? Are the commercial struggles around the use of vending space issues of black politics or simply issues of American competition?

Relationships between originals and their copies, authenticity and value are ironically twisted by African engagement in local markets. Until the October exodus, African Americans sold hand-made jewelry inscribing Malcolm's black nationalist X on a map of Africa colonized by the tripartite Garveyite flag on one axis of the crossroads that centered the People's Market. On the other, West African vendors sold a "counterfeit" version of Malcolm's X embroidered on Asian goods, marked by immigrants who produce the signs of American commercial possibility in hidden factories. Were the Songhay vendors in this context unauthentic purveyors of one of the authentic spirits of African American culture or were they authentic conveyors of an unlicensed and unauthorized image of an authentic spirit? Were they vehicles for an American spirit of consumerism, or appropriate purveyors of an image of militant Islam? The impossibility of a cultural politics of black authenticity in such circumstances is, at least, clear.

Black activists and scholars complain both of Malcolm X's dilution through his mimesis in commerce and of the effacement of many of the political questions he asked at the end of his life. If the commodified iconization of his "X" distorts and dilutes black politics such that relations of production and distribution, and the global economic marginalization of black peoples is obscured, the Songhay sale of such goods serves as a challenge and a reminder of the need to continually reconsider the character of black political solidarity that a global economy demands.

During most of his time with the Nation of Islam, Malcolm X saw race as a biological reality instead of a socially constructed, historical phenomenon. This assumption of biological essentialism colored his Black nation- [*827] alist philosophy. Relinquishing this biological essentialism in the last year of his life opened the doors for a greatly reformulated Black nationalism, one encompassing different notions of Black political consciousness and the types of political coalitions that Blacks might forge with other groups . . . [This is] increasingly important to an African American community situated in today's complex multiethnic, multinational political economy . . . Malcolm's increasing attention to global

structures of capitalism and imperialism led him to begin to consider the influence of global capitalism as a major structure affecting African Americans. The principal Black struggles of Malcolm's time were against colonialism. But in our postcolonial era, the need to incorporate analyses of global capitalism in any Black nationalist philosophy becomes not only more noticeable, but more important. n101

The very practices of trademark counterfeiting challenge the capitalist appropriation of Malcolm X and his control by corporate forces, implicitly raising the claims of others--migrants and workers in the informal economies of the global city. These others reveal the myth of a "postindustrial" society and challenge the propriety of proprietorship over the potentially politically salient texts that define the condition some call postmodernity. When a Songhay vendor dons a hat made in Bangladesh, emblazoned with the slogan "Another Young Black Man Making Money,"--while greeting his customers as "Brother" on the streets of Harlem--the cross-cutting significations of this performative add new dimensions to our understanding of racial politics. Not only does he echo and refract an ironic African American response to the racism of white America, he also adopts a competitive posture, questioning the parameters of the Blackness that defines the Man, while marking his own difference as potentially "An Other Young Black Man." He also acts in a relation of complicity with the subtextual tensions of ethnicity, gender, and class that reverberate from this phrase. The ironies of its traffic through export processing zones in Asia, factories in New Jersey, wholesalers in Chinatown, West African vendors in Harlem, and the cultural commerce of the African American community compel us to attend to nexuses of global and local processes and the ambiguities produced there. Multiple perspectives must be adopted to understand the complexities of contemporary conditions of globalization. [*828]

VIII. DILEMMAS OF REPRESENTATION: PLACE/CULTURE/NATION/STATE

The dilemmas of representation we face in our work with the Songhay are not unique, but symptomatic of the challenges posed by globalization for all contemporary research on relations between law and society. Even if one is not studying migrants, the mobility of capital, investments, goods, imagery, and ideas compels us to reconsider the "sites" of our research. For even if we remain "in one place," it is no longer possible to understand "place" in static terms or from any singular vantage point. As cultural geographers have shown, places are not sources of stability--the source of essential or integrated identities--around which boundaries can be drawn, but are particular constellations of historical relations articulated at a particular locus. n102 What is unique about a place is constructed out of relations, processes, memories, and comprehensions generated elsewhere. An awareness of global relations and linkages is necessary for any consideration of contemporary legal processes from inner city crime control, probation and parole practices, middle class community surveillance and home security systems to the loss of civil liberties for minority groups, urban renewal and increased homelessness. The increasing pressure upon states to meet social welfare needs in the face of declining tax bases, the need to attract capital, and the political problems of dealing with its social consequences all pose major policy dilemmas. Our scholarship must be simultaneously global and local if we are to adequately represent the contexts which shape the state's capacity to deploy law to meet social ends.

The state itself, of course, is becoming fragmentary and self-contradictory. Its traditional "legal" functions are delegated, appropriated, seized by and subcontracted to other social agents, institutions,

and market-oriented actors. The restructuring of world economic relations has produced new forms of illegality in local contexts, but it has not necessarily produced new sources of responsibility or accountability. Our cities have realized such illegalities. Municipal administrations are compelled to institute local legal responses to global processes of flexible capital accumulation in spatial and social reorganizations.
[*829]

The management and servicing of a global network of factories, service outlets, and financial markets has affected the spatial organization of our cities, resulting in situations of urban apartheid. Those low wage workers who take advantage of the opportunities afforded bythe informal economy find it very difficult to afford to live in these cities. n103 The deeper impoverishment of large sectors of the population is exacerbated in precisely those cities that contain increasingly affluent elites.

Some cities have so benefited from shifts in capital investment that their relations with parties abroad are more significant than their commitments to the regions or nations in which they are located. The desire to attract foreign capital has become a high priority, but the social costs of such investments were unanticipated. This has been a particularly devastating oversight in an era devoted to reducing deficits and retrenchments in social spending. Moreover, through the tax incentives these cities may offer and the infrastructures they create to create capital, these cities may find themselves without necessary resources to cope with the social problems their very dependency upon foreign capital may create. Because such sources of capital are not politically accountable to the jurisdictions in which they invest, no one may assume responsibility for the social pathologies consequent upon such investments. This has become particularly apparent in cities like Los Angeles and New York where the homeless, the working poor, and many recent immigrants find themselves squeezed into ever smaller and more dangerous areas, kept out of sight while more of the downtown area is targeted for foreigndirected redevelopment or "revitalization projects." n104 The role of lawyers in facilitating these social and spatial dislocations should certainly engage our attentions.

The dilemmas of representation we face in such contexts are manifold. The ways in which we represent socio -legal phenomena, the categories we use, the differentiations we take for granted, and the consequences for those whose circumstances we represent, are challenged and provoked by conditions of late capitalism. Even my brief allusion to Los Angeles questions the usefulness of separating issues like crime from
[*830] those of trade, considerations of homelessness from questions of foreign investment. Our doctrinal categories have become inadequate for representing the social problems with which the law must engage. To the extent that our scholarship still maintains an allegiance to eighteenth and nineteenth-century understandings of the public and the private, or even the "international" and the "domestic," our contributions will only perpetuate the political irrelevance of global legal scholarship.

The concept of the nation itself is one whose status requires re-evaluation. We know that the nation-state is no longer the undisputed source of law, nor the only venue for conceiving the rights and obligations of citizenship. It is now common to assert that the global "digital commons" has diminished the nation-state's capacity to control its wealth, conditions of production, tax or even to determine the location or composition of its population. As John Comaroff reminds us:

It hardly bears repeating that America's working class now is to be found as much in Seoul and Mexico City as in Chicago or New York. Or that Berlin's resident proletariat is largely Turkish . . . . The current "crisis of representation" in social theory has as much to do with the fact that our received categories

owe their origins to the rise of the nation-state . . . . The "nation" is thoroughly presupposed in academic discourses on "culture," "identity" and "society." The very idea of society has always been tied to modernist imaginings of political community . . . likewise "culture" in its anthropological usages has usually referred to the collective consciousness of those who live within a territorially defined polity. But where, now, does Turkish "society" begin and end? n105

Where might one find Filipino "culture" when the nation's largest export is its people, the Filipino "working class," when the largest portion of the country's foreign exchange is contributed by remissions from young women working abroad as domestic servants for Saudi elites, "hostesses" for Japanese business men, and nannies for Canadian academic couples? Do Songhay peoples have a singular "culture," given the number of countries with diverse colonial legacies in which they have resided? If so, does it include the images of Malcolm X and Homer Simpson they sell, or the generic "African" designs they produce to appease the desires of Afrocentric consumers? Does it include the songs of Ali Farke Toure, fixing Songhay lyrics in Paris recording studios, or his collaborations with Ry Cooder? Where is the Nigerien nation state
[*831] when undocumented Songhay migrants vending baseball caps are called upon to pay the electricity bills for the country's United Nations' mission? Where lies the sovereignty of the state, when its official agents must depend upon foreign nationals to maintain their tenuous claims to represent it in transnational contexts? It is clear, at least, that spatiallycentered and referenced concepts of representation will no longer suffice to convey contemporary political exigencies.

Contemporary conditions of transnationalism and diaspora call into question the location of the nation, its link to territory, and its relationship to the state. But the meaning of the nation is also challenged by those whose movement across geographic space has been far less extensive in the past two centuries. Various social movements have questioned the normative foundations of the modern, as well as the "new" world order. Indigenous people's movements, however, have possibly posed the most fundamental challenges to that constellation of modernist representations that derive from the nation-state and its sovereignty. Challenging the assimilationist assumptions of state citizenship and rejecting the status of "ethnic" or "minority" within the liberal state, they havepressed their claims as "first" and "sovereign" nations in international and transnational political forums. The category of the nation is fundamentally transformed by its occupancy by the historical others that provided the means and motive for its initial constitution. Simultaneously, indigenous peoples transform the fundamental categories of modernity--land and territory, title and property--in a fashion that reconceives relations between nature and culture, human society and its nonhuman conditions of being, custom and law-- disrupting our sense of their positivity and boundaries. By insisting upon their rights as nations indigenous peoples de-stabilize the foundations of modern juridical regimes and the integrity of their governing assumptions.

Contemporary diasporas have pluralized the compositions of their host societies, challenging the premises (or promises) of social and cultural homogeneity upon which the modern nation state was founded. Addressed under rubrics as diverse as the "implosion of the Third World in the First," and the "return of the repressed," the encounter with historically defined others in contemporary metropolises has shattered a European senses of self-certainty, the comfort enjoyed by the supposedly neutral observer in social science, and the security that we have the
[*832] means to "speak in the name of the real." n106 The conditions of postmodernity will not be realized in global legal theory simply by increased attention to the claims of continental philosophy.

The so-called de-centering of the Eurocentric, white, male, heterosexual voice by the claims and contradictions of historically silenced "others," is not achieved simply by "letting others speak" if we maintain control of the conditions of amplification and audibility--drawing otherness back into the range of our own timbers and tonalities of voice. We cannot simply nominate our own de-centering and populate our scholarly representations with essential differences, while maintaining our representational categories intact. If we are to embrace the challenge of the contemporary, the task of representation becomes far more complex. As authors, we assume authority; as scholars of law and society, our representations have consequence. Speaking "about" others in conditions where access to public forums is never equally available is a responsibility, regardless of whether or not we intend to speak "for" them. If we are to take our theoretical realizations to the heart of our practical enterprise, we must acknowledge the constitutive power of our own discourses.

The single, homogeneous point of view, that sense of perspective born in the Renaissance, triumphant in colonial occupations, and the rational version of modernity with which it is associated, must be questioned and undermined. The presumed mastery of the world that defined the site of this omniscient observer (to which the rest of the world and its peoples were for too long subject) is now challenged by the others it traditionally framed within its gaze. Increasingly, it is necessary to recognize that we always inhabit and deploy languages that are both partial and partisan--speaking for someone and from somewhere, constructing particular spaces of possibility and constraint. n107

Iain Chambers reminds us that language is never a transparent vehicle for communication, but above all a means of cultural construction. n108 Potentially shared, it is also infinitely differentiable and open to interpretive disruption by others whose interests may conflict with our own. No single representational grid will do justice to both voluntary searches for
[*833] economic opportunity and exiles induced by economic deprivation, religious oppression, ethnic violence, and the consequences of structural adjustment policies. The grids on which we map these movements are not the same as those appropriate to describe the privileged channels of movement occupied by media, technology, tourism, and advertising. n109 These movements and flows do share space and time, however, and we must represent their intersections and conjunctures--from the bottom up as well as the top down for globalization involves an articulation of local and non-local forces given voice in cultural idiom. The world is increasingly connected, but it is also increasingly full of difference. We need representational vehicles that enable us to remain sensitive to diversities of meaning even as we acknowledge the shaping power of processes that at first seem monolithic, homogenizing, and all-encompassing.

Sensitivities to difference, however, will also entail a certain relaxation of our own authorial control, our mastery over means of representation, and a refusal of universals so that we can approach the world, its possibilities, its identities, and its communities as truly contingent. Whether "we" are international legal scholars, political economists, public-choice theorists, feminists, or critical-race theorists, we must enable difference and recognize its continual emergence. This requires some humility, and an ability to allow the practices of others to disrupt, challenge, and transform "our" categories of representation. In any case, we must be prepared to acknowledge the contingency of our own academic agendas. Enabling diversity also entails admitting ambiguity--treating our own disciplinary inheritances as the fragile human creations they are--and opening up their inevitable aporias and listening for the meanings of their silences.

Under the gaze of others, we might recognize and explore the limits of our own subject-positions, confronting the confines of our own imaginations and coming to terms with the estrangements within. In such moments, critical thought is forced to abandon any pretence of either a fixed or a singular site

from which to produce knowledge of the real. As Chambers eloquently suggests, to write or read the social world today does not involve "penetrating the real" with our privileged insights, in order to re-cite it, but the attempt to extend, disrupt, and rework it by putting some distance between our selves and the contexts that comfortably provide us with identity. To write, he argues, although seemingly an imperialist gesture, can also involve a repudiation of domi- [*834] nation that reveals openings and ambiguities in our own sense of positivities. n110

Our previous sense of knowledge, language, and identity, our particular inheritance, cannot simply be rubbed out or cancelled. What we have inherited--as culture, as history, as language, as tradition, as discipline, as identity, if you will--is not destroyed, but taken apart, opened up to questioning . . . . The zone we now inhabit is open, full of gaps occupied by an excess that is irreducible to a single center, origin, or point of view. In these intervals, other stories, languages, and identities can be encountered and experienced . . . . The "I" is formed and reformed in movement in the world. n111

Only such recognitions enable us to acknowledge the limits of our selves--a necessary precondition to any possible dialogue across difference. It is this resistance to identity, and perhaps the consequent potential for identification, rather than continued and intransigent attachments to identities conventionally defined, that will ultimately transform global political fields. The example of Songhay experience in African American communities is only one among many that might illustrate the potentials inherent in the present for transformations of identity and community in political fields of difference. In writing about such historical moments of possibility, it is necessary to see our own scholarly languages of representation not merely as reflecting a state of things "out there," but as potentially productive of culture and difference. An ethical imperative compels us to abandon the sense of the world as an entity separate from our representations of it--the other of our thought and writing--a natural, essential, or positive being that we can simply describe. n112 We cannot reduce our responsibilities either to merely describing the world, or letting "others" speak; both acts are consistent with dynamics of power that do nothing to change the strategic alignments of existing positions, nor demand any interrogation of those identities and positions we claim as ourselves and our own.

In exploring the cultural politics of law and society in an African diaspora situated in an African American context, it is impossible to avoid the ambiguities and ambivalence inherent in situations where identities and communities are being reconfigured. If some of the irony, tragedy, humor and pathos of this historical conjuncture have been represented in my evocation--if I have conveyed some of the complexities of power
[*835] and meaning that arise from this nexus of the global and the local in the particularities of place, then perhaps some significant differences have been remarked. Such differences should de-stabilize the space from which we speak. Our writings are increasingly imbricated in a constellation of differences that our scholarly contributions may reproduce or transform; constitutive of a field of dialogue that may re-inscribe or disrupt processes of othering. To give human dimension to globalization is not simply to acknowledge the claims of others, but also to give voice to emergent forms of otherness within. It is with hope that I anticipate an articulation of the dimensions of that ambiguity.

FOOTNOTES:
n1 Rosemary J. Coombe, Transnationalism in Local Context: Songhay Migrant Experiences in New

York City's Informal Economy Research project for which funding has been awarded under the Global Social Legal Research Program of the National Sciences Foundation.

n2 See Steven Winter, The Cognitive Dimension of the Agony Between Legal Power and Narrative Meaning 87 Mich. L. Rev. 2225 (1989) (exploring the significance of narrative in legal scholarship addressing the structure and human experience of the law); see also Daniel A. Faber and Suzanne Sherry, Telling Stories Out of School: An Essay on Legal Narratives 45 Stan. L. Rev. 807 (1993).

n3 See Steven L. Winter, Legal Storytelling, 87 Mich. L. Rev. 2225 (1989) (describing the significance of storytelling in the understanding of law); see Gerald P. Lopez, Rebellious Lawyers: One Chicano's Vision of Progressive Law Practice 167-274 (1992).

n4 David Harvey, The Condition of Postmodernity (1989); see Linda Hutcheon, The Politics of Postmodernism 93-117 (1989) (examining the significance of irony and pastiche as cultural forms characteristic of postmodernity); see also Postmodernism and Law: A Symposium, 62 Colo. L. Rev. 489 (1991); Hal Foster, Recordings: Art, Spectacle, Cultural Politics (1985); Fredric Jameson, Postmodernism and Consumer Society, in The Anti-Aesthetic: Essays on Postmodern Culture (Hal Foster ed., 1983) (arguing that pastiche is one of the most important aspects of postmodernism).

n5 See Robert W. Gordon, Critical Legal Histories, 36 Stan. L. Rev. 57, 10209 (1984) (arguing that the concepts of law and society are not necessarily separate).

n6 For consideration of constitutive theories of law, see Allan Hunt, Explorations in Law and Society: Toward a Constitutive Theory of Law 17-35 (1993) (examining law's dominating power); Phyllis Pease Chock, "Illegal Aliens" and "Opportunity": Myth-Making in Congressional Testimony, 18 Am. Ethnologist 279 (1991) (examining the treatment of illegal alien issues in Congressional hearings); Mindie Lazarus Black, Legitimate Acts and Illegal Encounters: Law and Society in Antigua and Barbuda (1994); Peter Just, History, Power, Ideology, and Culture: Current Directions in the Anthropology of Law, 26 L. & Soc'y Rev. 373 (1992) (summarizing several theories of "legal style"); Sally Engle Merry, Getting Justice and Getting Even: The Legal Consciousness of Working-Class Americans, 1990 [hereinafter Getting Justice] (examining the law's power with regard to working-class plaintiffs); Sally Engle Merry, Concepts of Law and Justice Among Working-Class Americans: Ideology as Culture, 9 Legal Stud. F. 59 (1985) (arguing that the working-class' view of law is dependent on a chance outcome rather than any systematic view); Sally Engle Merry, Everyday Understandings of the Law in Working-Class America, 13 Am. Ethnologist 253 (1986) (arguing that the working class feels that the law has lost legitimacy); Christine B. Harrington & Sally Engle Merry, Ideological Production: The Making of Community Mediation, 22 L. & Soc'y Rev. 709 (1988) (examining the role of mediation); Sally Engle Merry, Law as Fair, Law as Help: The Texture of Legitimacy in American Society, in New Directions in the Study of Law, Justice, and Social Control (School of Justice Studies, Arizona State University, eds. 1990); Sally Engle Merry, The Discourse of Mediation and the Power of Naming, 2 Yale J.L. & Human. 1 (1990) (examining the role naming has in legal actions by working-class parties); Sally Engle Merry, Culture, Power, and the Discourse of Law, 37 N.Y.L. Sch. L. Rev. 209 (1993) (observing how the law affects the social relationships of those who interact with it); Frank Munger, Sociology of Law For a Postliberal Society, 27 Loy. L.A. L. Rev. 89 (1993).

n7 See Austin Sarat and Thomas R. Kearns, Law in Everyday Life (1993).

n8 See Michael McCann, Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization (1994) (describing the interaction of law and social change in the context of pay equity); see also Lisa

Bower, Queer Acts 28 L. & Soc'y Rev. (1995).

n9 Getting Justice, supra note 6, at 179; see also Austin Sarat, " . . . The Law Is All Over": Power, Resistance, and the Legal Consciousness of the Welfare Poor, 2 Yale J.L. & Human. 343 (1990) (describing how the consciousness of the welfare poor cannot be separated from their perception of the law).

n10 See Rosemary J. Coombe, Cultural and Intellectual Property: Occupying the Colonial Imagination 16(1) PoLAR 8 (1992); Mindie Lazarus-Black & Susan F. Hirsch, Contested States: Law, Hegemony, and Resistance (1994); Phyllis Pease Chock, Remaking and Unmaking "Citizen" in Policy-Making Talk about Immigration, 17(2) PoLAR 45 (1994); Richard K. Herrell, Gay Americans: In the (National) Life, 17(2) PoLAR 37 (1994); Bill Maurer, Citizenship and Flexible Specialization in a Caribbean Tax Haven (British Virgin Islands) 16(3) PoLAR 9 (1993); Renato Rosaldo, Cultural Citizenship in San Jose, California, 17(2) PoLAR 57 (1994); Anne Sutherland, Gypsy Identity, Names and Social Security Numbers, 17(2) PoLAR 75 (1994); Bonnie Urciuoli, Acceptable Difference: The Cultural Evolution of the Model Ethnic American Citizen 17 (2) PoLAR 19 (1994); Barbara Yngvesson, Virtuous Citizens, Disruptive Subjects: Order and Complaint in a New England Court (1993) (studying how such identities are forged in a small New England town).

n11 See Rosemary J. Coombe, Publicity Rights and Political Aspiration: Mass Culture, Gender Identity, and Democracy, 26 New Eng. L. Rev. 1221 (1992); Rosemary J. Coombe, Contesting the Self: Negotiating Subjectivities in Nineteenth-Century Ontario Defamation Trials, 11 Stud. L., Pol., & Soc'y 3 (1991); Bower, supra note 8.

n12 Recapturing Anthropology: Working in the Present 1 (Richard G. Fox ed., 1991).

n13 See Arjun Appadurai, Disjuncture and Difference in the Global Political Economy, 2(2) Public Culture 1 (1990); Arjun Appadurai, Global Ethnoscapes: Notes and Queries for a Transnational Anthropology, in Recapturing Anthropology: Working in the Present, supra note 12 at 209 (proposing an enthnography that encompasses both local history and transnational structures); James Clifford, The Predicament of Culture (1988) (noting that the world is increasingly connected economically and culturally); Kristin Koptiuch, Third-Worlding at Home, 29 Soc. Text 183 (1991); Renato Rosaldo, Culture and Truth: The Remaking of Social Analysis (1989).

n14 See George E. Marcus, Contemporary Problems of Ethnography in the Modern World System, in Writing Culture 165 (George E. Marcus & James Clifford eds., 1986) (positing that the changes in the capitalist economy should be examined in the context of ethnography); see also Jean Comaroff & John Comaroff, Ethnography and the Historical Imagination (1992) (examining the effect of colonialism in global systems); see also Eric Wolf, Europe and the People Without History 263-383 (1982) (describing the rise of the industrial revolution in a global context).

n15 Ahkil Gupta, The Song of the Nonaligned World: Transnational Identities and the Reinscription of Space in Late Capitalism, 7 Cultural Anthropology 63 (1992); Ahkil Gupta & James Ferguson, Beyond "Culture": Space, Identity and the Politics of Difference, 7 Cultural Anthropology 6 (1992); Masao Miyoshi, A Borderless World? From Colonialism to Transnationalism and the Decline of the Nation-State, 19 Critical Inquiry 726, 736 (1993); Displacement, Diaspora and the Geographies of Identity (Smadar Lavie & Ted Swedenberg eds., 1995); Culture, Power, Space: Explorations at Ethnography's Edge (Akhil Gupta & James Ferguson eds., forthcoming 1996).

n16 Michael P. Smith, Can you Imagine? Transnational Migration and the Globalization of Grassroots Politics, 39 Soc. Text 15 (1994) (analyzing the "migratory circuit" of Mexicans entering the United States).

n17 See Nina Glick Schiller et. al., Towards a Definition of Transnationalism: Introductory Remarks and Research Questions, 645 Annals N.Y. Acad. Sci. ix, xii (1992) (noting what questions to ask in this regard); Nina Glick-Schiller et. al., Transnationalism: A New Analytic Framework for Understanding Migration, 645 Annals N.Y. Acad. Sci. 1 (1992) (arguing that the scope of examination of migration must be transnational); Michael Kearney & Carol Nagengast, Anthropological Perspectives on Transnational Communities in Rural California (Working Group on Farm Labor and Rural Poverty, Working Paper no. 3, 1989).

n18 See Peter Klaus Berger, International Economic Arbitration (1993); Charles Bower, Introduction, in International Arbitration in the 21st Century: Towards "Judicialization" and Uniformity (Charles Bower & Richard Lillich eds., 1993) [hereinafter International Arbitration in the 21st Century] (observing that the use of arbitration in international disputes has increased in recent years); David Charny, Competition Among Jurisdictions in Formulating Corporate Law Rules: An American Perspective on the "Race to the Bottom" in the European Communities, 32 Harv. Int'l L.J. 423 (1991) (exploring the harmonization of corporate law in the European Communities); Yves Dezelay & Bryant Garth, Dealing in Virtue: International Commercial Arbitration and the Internationalization of Legal Practice (forthcoming, 1995); Yves Dezelay & Bryant Garth, Merchants of Law as Moral Entrepreneurs: Constructing International Justice Out of the Competition for Transnational Business Disputes (1994) (unpublished manuscript); Peter M. Haas, Introduction: Epistemic Communities and International Policy Coordination, 46 Int'l Organization 1 (1992); Richard Lillich, The Law Governing Disputes Under Economic Development Agreements: Reexamining the Concept of "Internationalization", in International Arbitration in the 21st Century, supra, at 61 (observing the effects of arbitration on international contracts); Jeswald W. Salacuse, Making Global Deals: Negotiating in the International Marketplace 164-68 (1991) (outlining suggestions for international negotiation); Joel Trachtman, International Regulatory Competition, Externalization, and Jurisdiction, 34 Harv. Int'l L.J. 47 (1994) (comparing cooperative and competitive policies in international regulation).

n19 David Trubek et al., The Internalization of Legal Fields and the Creation of Transnational Arenas, (Global Studies Research Program Working Paper no.1, 1993).

n20 See Ron Daniels, Growing Pains: The Why and How of Law Firm Expansion, 43 U. Toronto L.J. 147 (1993) (examining the growth of Canadian corporate law firms); Robert L. Nelson, Partners With Power (1988); Marc S. Galanter & Thomas M. Palay, Why the Big Get Bigger: The Promotion-to-Partner Tournament and the Growth of Large Law Firms, 76 Va. L. Rev. 747 (1990) (proposing several new forms the large law firm may take).

n21 Charney, supra note 18; Haas, supra note 18; Trachtman, supra note 18, at 103-04; but see Richard Lillich, The Law Governing Disputes under Economic development Agreements: Reexamining the Concept of Internationalization in International Arbitration in the 21st Century, supra note 18, at 92-106.

n22 Clifford Geertz, Local Knowledge 167-234 (1983). For discussion of legal pluralism, see C. Fuller, Legal Anthropology, Legal Pluralism and Legal Thought, 10 Anthropology Today 9 (1994); Sally Engle Merry, Legal Pluralism, 22 L. & Soc'y Rev. 869 (1988); Brian Z. Tamanaha, The Folly of the "Social Scientific" Concept of Legal Pluralism, 20 J.L. & Soc'y 192, 211 (1993) (claiming that the concept of

law no longer encompasses mere social ordering).

n23 See Comaroff & Comaroff, supra note 14 (viewing capitalist developments in the context of colonial); Modernity and its Malcontents (Comaroff & Comaroff eds., 1993) (stressing the need to examine global processes in the context of local histories); Michael J. Watts, Space for Everything (A Commentary), 7 Cultural Anthropology 115 (1992); Michael J. Watts, Mapping Meaning, Denoting Difference, Imagining Identity: Dialectical Images and Postmodern Geographies, 73B Geografiska Annaler 7 (1991); Michael J. Watts & Alan Pred, Reworking Modernity: Capitalisms and Symbolic Discontent (1991).

n24 See Peter Dicken, Global Shift: The Internationalization of Economic Activity (1992) (describing the globalization of the textile, automobile, electronics, and services industries); see also Gerald Epstein et al., in Introduction Creating a New World Economy: Forces of Change and Plans for Action (Gerard Epstein et al. eds., 1993).

n25 Munger, supra note 6, at 119-24.

n26 Yngvessen, supra note 10.

n27 Political economists and geographers have argued that we can only hope to understand "the global" locally, that is, in the ways in which the forces we designate under the rubric of "globalization" take place, most particularly in the social and spatial transformations of those cities from which the global economy is managed. See Lain Chambers, Cities Without Maps, in Mapping Futures: Local Cultures, Global Change (Bird et al. eds. 1993); see also Restructuring the City (Susan S. Fainstein et al. eds., 1986) (examining the redevelopment of New Haven, Detroit, New Orleans, Denver, and San Francisco); The Capitalist City: Global Restructuring and Community Politics (Michael Peter Smith & Joe R. Feagin eds., 1987) [hereinafter The Capitalist City]; Saskia Sassen, Transcending the Ideology of Globalization, Address at the Woodrow Wilson Center, (Aug. 20, 1993). New York City is recognized as one such global city that has been socially and spatially restructured. See John Mollenkopf & Manuel Castells, Introduction in Dual City: Restructuring New York 3-16 (John Mollenkopf & Manuel Castells eds., 1991) (describing the transformation and polarization of the city); Louis Winnick, New York Unbound, in New York Unbound 15-18 (Peter D. Salins ed. 1988) (describing how immigrants spark neighborhood revival in the city). Like other cities it has experienced a profound growth of income polarization, class realignments, massive influxes of migrants and new structures of consumption that contribute to the growth of informal sector production and service provision. Saskia Sassen, Growth and Informalization at the Core: A Preliminary Report on New York City, in The Capitalist City, supra at 138; Saskia Sassen, The Informal Economy, in Dual City: Restructuring New York, supra (adding that many aspects of the formal economy encourage the informal economy); Saskia Sassen, Why Migration? 26 Rep. Am. 14 (1992). It is, therefore, an ideal place in which to explore the local consequences of globalization.

n28 See generally Symposium, The Informal Economy, 103 Yale L.J. 2119 (1994).

n29 See Saskia Sassen, The Global City: New York, London, Tokyo (1991) [hereinafter The Global City]; Saskia Sassen, Cities in a World Economy (1994); see also Saskia Sassen, Rebuilding the Global City: Economy, Ethnicity and Space, Soc. Justice, Fall-Winter 1993, at 33 (describing how the formal and informal economies combine in the modern city).

n30 James Mittelman, Global Restructuring of Production and Migration, in Global Transformation:

Challenges to the State System 291-95 (Yoshikazv Sakamoto ed., 1994).

n31 According to World Bank projections, in Asia the number in poverty will fall from 805 million in 1985 to 435 million by the end of this century. In Latin America and the Caribbean, from 75 million to 60 million. In Sub-Saharan Africa, by contrast, the number of poor will rise by 85 million to 265 million in the year 2000. Thus Asia's share of the world's poor will decline to 53% from 72% in 1985, Latin America's and the Caribbean's will drop to 11.4% from 19.1%, and Sub-saharan Africa's percentage of the world's poor will double from 16 to 32% Id. at 335-36.

n32 Hemmed In: Responses to Africa's Economic Decline 1-3 (Thomas M. Callaghy & John Ravenhill eds., 1993).

n33 Saskia Sassen's work has been influential in helping me to consider the problem and the shortcomings of our doctrinal and legislative categories for dealing with it. See Sassen, Why Migration?, supra note 27.

n34 Id.

n35 Sassen, The Global City, supra note 29, at 325.

n36 Id. at 327-38.

n37 Harvey, supra note 4 at 106, 180-197.

n38 See Mike Davis, City of Quartz (1990) (providing a fascinating account of the social and legal consequences of Pacific Rim investment in Los Angeles real estate as a case study).

n39 Id.

n40 Sassen, The Global City, supra note 29, at 335.

n41 Id. at 335-36; see also Sassen, Cities in a World Economy, supra note 29 at 2-4; Harvey, supra note 4; Sharon Zukin, Loft Living 173-92 (1982) (discussing the gentrification of working-class city neighborhoods); Richard Thompson Ford, The Boundaries of Race: Political Geography in Legal Analysis, 107 Harv. L. Rev. 1843 (1994).

n42 See Dual City: Restructuring New York, supra note 27 (discussing the dual nature of the modern city).

n43 Sassen, Cities in a World Economy, supra note 29 at 101; see Saskia Sassen, The Informal Economy: Between New Developments and Old Regulations, 103 Yale L.J. 2289, 2296 (1994) (noting that mass production and distribution facilitate labor unionizing).

n44 Sassen, The Informal Economy, in Dual City: Restructuring New York, supra note 27, at 22.

n45 Id. a t 84-6.

n46 Manuel Castells and Alejandro Portes, World Underneath: the Origins, Dynamics and Effects of the Informal Economy in The Informal Economy 11, 12 (Portes et al. eds., 1989).

n47 Lauren Benton, Beyond Legal Pluralism: Towards a New Approach to Law in the Informal Sector 3 Soc. & Legal Stud. 223 (1994).

n48 Id.

n49 Peter Just, History, Power, Ideology, and Culture: Current Directions in the Anthropology of Law, 26 L. & Soc'y Rev. 373, 376-87 (1992).

n50 The Invention of Tradition (Hobsbawm & Ranger eds., 1983); Sally Falk Moore, Social Facts and Fabrications (1986).

n51 Interview with Brackette Williams, Anthropologist, at the Cultural Anthropology Meetings in Chicago, Ill. (May 9, 1994).

n52 Wolf, supra note 14.

n53 1 Jean Comaroff & John Comaroff, Of Revelation and Revolution: Christianity, Colonialism, and Consciousness in South Africa (1991); Comaroff & Comaroff, Ethnography and the Historical Imagination, supra note 14.

n54 Javed Majeed, Ungoverned Imaginings: James Mill's The History of British India and Orientalism (1992); Timothy Mitchell, Colonialising Egypt (1988); Timothy Mitchell, Orientalism and the Exhibitionary Order, in Culture and Colonialism 289-318 (Dirks ed., 1992); Gauri Viswanathan, Masks of Conquest: Literary Study and British Rule in India (1989).

n55 Comaroff & Comaroff, supra note 14, at 6; Modernity and its Malcontents, supra note 23; Watts and Pred, supra note 23.

n56 Aihwa Ong, Spirits of Resistance and Capitalist Discipline: Factory Women in Malaysia (1987).

n57 Jeffrey Clark, Gold, Sex, and Pollution: Male Illness and Myth at Mt. Kare, Papua New Guinea 20 Am. Ethnologist 742 (1993); June Nash We Eat the Mines and the Mines Eat Us (1979); Michael Taussig, The Devil and Commodity Fetishism in South America (1980).

n58 See Rosemary J. Coombe, Tactics of Appropriation and the Politics of Recognition in Late Modern Democracies, 21 Political Theory 411 (1993) (discussing rumors linked to consumer trademarks); Mary Crain, Poetics and Politics in the Ecuadorian Andes: Women's Narratives of Death and Devil-Possession, 18 Am. Ethnologist 67 (1991); Mary Crain, Opening Pandora's Box: A Plea for Discursive Heteroglossia, 21 Am. Ethnologist 205-10 (1994); Lynn Hirschkind, Bedeviled Ethnography, 21 Am. Ethnologist 201 (1994).

n59 Comaroff & Comaroff, supra, note 14 at 11.

n60 Id.

n61 Id. at 18.

n62 Rosemary J. Coombe, Objects of Property and Subjects of Politics: Intellectual Property Laws and

Democratic Dialogue, 69 Tex. L. Rev. 1853 (1991); Rosemary J. Coombe, Publicity Rights and Political Aspiration: The Celebrity Image, Mass Culture, and Democracy, supra note 11; Rosemary J. Coombe, Tactics of Appropriation and the Politics of Recognition in Late Modern Democracies, supra note 58; Rosemary J. Coombe, The Properties of Culture and the Politics of Possessing Identity: Native Claims in the Cultural Appropriation Controversy 6 Can. J.L. & Jurisprudence 249 (1993); Rosemary J. Coombe, Challenging Paternity: Histories of Copyright 6 Yale J. L. & Human. 397 (1994); Rosemary J. Coombe and Paul Stoller, X Marks the Spot, supra note *; Rosemary J. Coombe, Cultural and Intellectual Property: Occupying the Colonial Imagination, supra note 10; Rosemary J. Coombe, Authorizing the Celebrity: Publicity Rights, Postmodem Politics, and Unauthorized Genders, 10 Cardozo Arts & Ent. L.J. 365 (1992); Rosemary J. Coombe, Beyond Modernity's Meanings: Encountering the Postmodern in Cultural Anthropology, 11 Culture: J. Can. Anthropology Soc'y 111 (1991).

n63 Rosemary J. Coombe, Publicity Rights and Political Aspiration: The Celebrity Image, Mass Culture, and Democracy, supra note 11; Rosemary J. Coombe, Author/izing the Celebrity: Publicity Rights, Postmodern Politics, and Unauthorized Genders, supra note 62; Rosemary J. Coombe, The Properties of Culture and the Politics of Possessing Identity: Native Claims in the Cultural Appropriation Controversy, supra note 62; Coombe, Tactics of Appropriation and the Politics of Recognition in Late Modern Democracies, supra note 58.

n64 Paul Stoller, The Taste of Ethnographic Things: The Senses in Anthropology 113-22 (1989).

n65 Paul Stoller, Fusion of the Worlds: An Ethnography of Possession Among the Songhay of Niger 167 (1989).

n66 Id. at 181.

n67 Sassen, Why Migration?, supra note 27, at 16.

n68 Victoria Ebin & Rose Lake, Camelots a New York: Les Pionniers de l'Immigration Senegelaise, 1160 Hommes et Migrations 32, 35 (1992) [our translation].

n69 Id. at 34.

n70 First, Amiri Baraka, spokesman for the United Front to Preserve the Legacy of Malcolm X, protested Spike Lee's involvement in the mass market film which was likely to be the most influential public presentation of the X story. Ironically, this echoed Lee's own earlier public outrage when it appeared that Norman Jewison, a white director, would be directing the Warner Bros. film. These controversies over the directorship of the film were as contentious as the earlier debates about the choice of screenplay.

n71 David Ansen et al., The Battle for Malcolm X, Newsweek, Aug. 26, 1991, at 52, 54.

n72 Id. at 53.

n73 R. Lee Sullivan, Spike Lee versus Mrs. Malcolm X, Forbes 1992, at 136.

n74 Id.

n75 Id.

n76 Joe Wood, Malcolm X and the New Blackness, in Malcolm X: In Our Own Image (Joe Wood ed., 1992).

n77 Clifford J. Levy, Cyberfakes: The Latest in Knock-Offs: Computer-made Counterfeits, N.Y. Times, Feb. 20, 1994, at 9-1, 9-8.

n78 Rosemary J. Coombe, Publicity Rights and Political Aspiration: The Celebrity Image, Mass Culture, and Democracy, supra note 11.

n79 Alex Haley, The Autobiography of Malcolm X 216 (1964).

n80 Michael Eric Dyson, X Marks the Plots: A Critical Reading of Malcolm's Readers, 35 Soc. Text 25, 51 (1993).

n81 Malcolm M. Feeley & Jonathon Simon, The New Penology: Notes on the Emerging Strategy of Corrections and its Implications, 30 Criminology 449 (1992) (arguing that American penal systems have lost all sense of ideological or moral justification for their practices, and that an increasingly bureaucratic view of the penal process prevails).

n82 Id. Increasing primacy is given to the efficient control of internal system processes in place of the traditional objectives of rehabilitation and crime control--filling out the forms and producing statistics become ends in themselves:

An important new language of penology is emerging. This new language, which has its counterparts in other areas of the law as well, shifts focus away from the traditional concerns of criminal law and criminology, which have focused on the individual, and redirects it to actuarial consideration of aggregates.

Id. at 449.

n83 Regina Austin, An Honest Living, 103 Yale L.J. 2119, 2121 n.4 (1994) (citing Ruben Castaneda, Vendors Raise Howl Over Higher Fee Plan, Wash. Post, Feb. 5, 1993, at D1); Jennifer F. Parker, Street Vendors: New Rules Offer Chance To Sell Wares, Atlanta J. & Const., July 15, 1993, at D1; Vanessa Williams, New Rules on Street Vendors Draw Near, Phila. Inquirer, Feb. 11, 1993 at B1; Tao Wolf, Vendors Must Get Off the Streets: Rule Puts Public Land Off-limits to Peddlers, Sun Sentinel, Jan. 3, 1994, at B1; Operation New Birmingham v. Flynn, 621 So. 2d 1316 (Ala. 1993); City of New Orleans v. Dukes, 427 U.S. 297 (1976); see also Daniel M. Bluestone, "The Pushcart Evil": Peddlers, Merchants, and New York City's Streets, 1890-1940 18 J. Urb. Hist. 68 (1991) (providing a historical perspective).

n84 Jonathan P. Hicks, Vendors' Ouster and Boycott Divide Harlem, N.Y. Times, Oct. 23, 1994, at 1.

n85 Id.

n86 Greg Tate, Can This be the End for Cyclops and Professor X?, in Malcolm X: In Our Own Image

supra note 76 at 185.

n87 Wood, supra note 76, at 14.

n88 Nicholas Garnham, The Mass Media, Cultural Identity, and the Public Sphere in the Modern World, 5 Public Culture 251 (1993); Benjamin Lee, Going Public, 5 Public Culture 165 (1993); see Dana Polan, The Public's Fear: or, Media as Monster in Habermas, Negt, and Kluge, in The Phantom Public Sphere 33 (Bruce Robbins ed., 1993); Michael Warner, The Mass Public and the Mass Subject, in The Phantom Public Sphere, 234; cf. Universal Abandon? The Politics of Postmodernism (Andrew Ross ed., 1988). See generally Paul E. Willis, et al., Common Culture: Symbolic Work at Play in the Everyday Cultures of the Young (1990).

n89 Regina Austin, A Nation of Thieves: Securing Black People's Right to Shop and to Sell in White America, 1994 Utah L. Rev. 147 (1994).

n90 Id. at 165.

n91 Margaret Russell, Entering Great America: Reflections on Race and the Convergence of Progressive Legal Theory and Practice, 43 Hastings L.J. 749 (1992).

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n93 Charise Jones, All Kinds of People Arrive Bearing Guns, N.Y. Times, Jan. 1, 1994, at A27.

n94 Austin, supra note 89, at 161.

n95 Michael Marriott, Out of the Woods: The Inner City Loves Timberland: Does Timberland Love the Inner City?, N.Y. Times Nov. 7, 1993 at 9 -1, 9-11.

n96 Id.

n97 Rosemary J. Coombe, Objects of Property and Subjects of Politics: Intellectual Property Laws and Democratic Dialogue, supra note 63.

n98 Jones, supra note 93.

n99 Austin, supra note 89.

n100 Wood, supra note 76, at 15.

n101 Patricia Hill Collins, Learning to Think for Ourselves: Malcom X's Black Nationalism Reconsidered, in Malcom X: In Our Own Image, supra note 76, at 612.

n102 See Doreen Massey, Power-geometry and a Progressive Sense of Place, in Mapping Futures: Local Cultures, Global Change, supra note 27, at 59 (arguing that the relationship between place and space is what is important and that a global sense of place is needed); Place/Culture/Representation, (Duncan and Ley eds., 1993).

n103 See Sassen, The Global City, supra note 29 at 329.

n104 See Mike Davis, Chinatown Part Two? The 'Internationalization' of Downtown Los Angeles, 164 New Left Rev. 65 (1987) (discussing the restructuring of downtown Los Angeles); Mike Davis, City of Quartz: Excavating the Future in Los Angeles, (1990) (laying out and discussing the future urbanization and growth of Los Angeles); Mike Davis, Beyond Blade Runner: Urban Control, The Ecology of Fear (1992) (Open Magazine Pamphlet Series).

n105 John L. Comaroff, Ethnicity, Nationalism and Politics of Difference in Age of Revolution, in Ethnicity, Identity and Nationalism in South Africa (E. Willmsen and P. McAllister eds., 1994).

n106 Paul Stoller, Speaking in the Name of the Real: Freeman and Mead in Samoa, 85 Am. Anthropologist 908 (1983); see also M. De Certeau, History: Ethics, Science and Fiction, in Social Science as Moral Inquiry (N. Haan et al. eds., 1983) (discussing and defining the relationship between ethics, science, and fiction, especially in the field of social sciences).

n107 Ian Chambers, Migrancy Culture Identity 24 (1994).

n108 Id. at 12.

n109 Id. at 51-2.

n110 Id. at 11.

n111 Id. at 24.

n112 Id.