

Representations of the (Extra)territorial: Theoretical and visual perspectives

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Progressive, post-realist scholarship engaging with the ‘end of geography’ has observed that State borders have become porous due to increased communication, travel and migration opportunities,¹ as well as the emergence of global, cosmopolitan values.² Individuals’ primary allegiance may no longer, as a matter of course, be with the State in which they reside or with their fellow nationals. Individuals and collectivities may have relations to, and even duties towards, ‘others’ in far-flung places.³ Borders, in this view, are accidents of history, enclosing an arbitrarily bounded space that is no longer in keeping with the sociological reality of global human interdependency. This mini-special issue of the *Utrecht Law Review* has set itself the task of inquiring as to what the evaporation of borders means for conceptualizations of (extra)territoriality, sovereignty and jurisdiction.

Admittedly, other authors have also ventured into this field.⁴ However, without wanting to sound presumptuous, this special issue offers a unique perspective in that it combines theoretical (academic) and *visual* (artistic) perspectives. On the basis of artistic images produced by the *Exterritory* art project,⁵ authors whose expertise sits astride the disciplines of law and philosophy, have been invited to reflect on specific questions of (extra)territoriality. The contributions were presented at a conference organized on 22-23 April 2016 by the UNIJURIS project, a research project on unilateral jurisdiction and global values based at Utrecht University School of Law.⁶ This mini-special issue is co-edited by Cedric Ryngaert (principal investigator of the UNIJURIS project) and Maayan Amir and Ruti Sela (founding members of the *Exterritory* art project). Ryngaert has written this introduction from an academic perspective. Amir and Sela provide more interpretative information regarding their artworks, at least regarding one particular incident (the Gaza flotilla) in a piece following this one (‘Representing Extraterritorial Images’).⁷

To properly understand the contributors’ engagement with territory/territoriality and especially extraterritoriality, it is apt to give a working definition, or at least our understanding of these concepts in this introduction. Territory is not defined in raw physical terms as a bordered or enclosed land area but rather as a conceptual, spatial notion that has historical, geographic and political overtones.⁸ For our purposes,

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1 D. Bethlehem, ‘The end of geography: the changing nature of the international system and the challenge to international law’, (2014) 25 *European Journal of International Law*, no. 1, pp. 9-24.

2 S. Caney, ‘Global interdependence and distributive justice’, (2005) 31 *Review of International Studies*, no. 2, pp. 389-399.

3 See, e.g., on external duties of the EU, from a political theory perspective: E. Eriksen, ‘Three Conceptions of Global Political Justice’ (30 November 2016), ARENA Centre for European Studies, University of Oslo, GLOBUS Research Paper 1/2016 available at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2878745> (last visited 24 March 2017).

4 E.g., G. Handl et al. (eds.), *Beyond Territoriality: Transnational Legal Authority in an Age of Globalization* (2012).

5 <<https://exterritory.wordpress.com/>> (last visited 24 March 2017).

6 <<http://unijuris.sites.uu.nl>> (last visited 24 March 2017).

7 R. Sela & M. Amir, ‘Representing Extraterritorial Images’, (2017) 13 *Utrecht Law Review*, no. 2, <http://doi.org/10.18352/ulr.379>, pp. 7-12.

8 S. Elden, *Birth of Territory* (2013), p. 328.

territory is viewed as a mode and object of governance. The dynamic notion of territoriality is defined as ‘the attempt to affect, influence, or control actions, interactions (...) by asserting and attempting to enforce control over a geographic area.’⁹ Extraterritoriality then is literally the opposite of, or denial of, territoriality (‘outside’ territoriality), i.e., the attempt to exercise control over persons, situations or areas outside the controller’s territory.

The concepts of territory and territoriality have a close and almost symbiotic relationship with the notion of *the State*. The State is a collective legal subject that is in the first place defined by its territorial borders.¹⁰ In the dominant understanding, the State can exercise its governmental activities on its territory to the exclusion of other States, or put differently, the State has, in principle at least, exclusive territorial sovereignty or exclusive territorial jurisdiction/authority.¹¹ Historically, the formation of the modern State has been conditioned by, and intertwined with, the possibilities to draw more certain territorial borders, possibilities that were boosted by the development of the science of cartography from the 16th century onwards.¹²

Cartographic techniques (arguably) allowed for a more accurate *representation* of reality on the ground: distances indicated on maps and the size of places (arguably) reflected more faithfully the actual distances and the actual size of these places. We deliberately use the adverb ‘arguably’ in this respect, as no representation of reality can be neutral. Historically, the political recuperation of ‘objective’ cartographic techniques was undeniably geared towards entrenching political power over faraway corners of the realm, the political allegiances of which had so far been uncertain.¹³ This outward radiation of the political center’s powers, combined with the demarcation of territorial frontiers vis-à-vis rival centers of power, simultaneously had an inclusive and exclusive aspect: more clearly drawn boundaries *included* the populace living in the territory within a constructed political community and *excluded* the exercise of ‘extraterritorial’ authority by adjacent territorial rulers as well as individuals living elsewhere. The brute physicality on which territoriality as a mode of political management was based, inevitably had a naturalizing effect. Over the years, the marriage of the political and the territorial came to be seen as self-evident¹⁴ and no longer open to contestation. Ideas of popular democracy and nationalism eventually further strengthened the obvious character of State-based territoriality. The State’s legitimacy was made to hinge on the political participation of territory-based individuals (democracy), or on its realization of the *Volksgeist* (nationalism). Either way, State rulers were considered to *represent* the people. The people’s (theoretical) ownership of the State naturally led individuals to socially identify with the bounded territory in which they lived. The relevance of non-territorial, community-based political allegiances crumbled.

Over the last centuries, territoriality accordingly became the political norm and extraterritoriality – which had historically been based on personal links (e.g., on kinship) – the exception. Territoriality and extraterritoriality should not necessarily be seen as opposites, however. They are malleable notions which make allowance for various political framing strategies, as a result of which one and the same assertion of authority could be labelled as territorial by one actor and as extraterritorial (and presumably suspect) by another.¹⁵ Moreover, States – the guardians of territory – managed to game the territory-based system and

9 R. Sack, ‘Human Territoriality: A Theory’, (1983) 73 *Annals of the Association of American Geographers*, doi:10.1111/j.1467-8306.1983.tb01396.x, p. 55.

10 Art. 1 1922 Montevideo Convention on Rights and Duties of States, 165 *League of Nations Treaty Series*, p. 20.

11 *Island of Palmas case (Netherlands, USA)*, [1928] 2 Reports of International Arbitral Awards, p. 839 (‘[T]erritorial sovereignty (...) involves the exclusive right to display the activities of a state.’).

12 See for the long formation period of the territorial State: J. Branch, *The Cartographic State: Maps, Territory, and the Origins of Sovereignty* (2014).

13 E.g., R. Ford, ‘Territory (a History of Jurisdiction)’, (1999) 97 *Michigan Law Review*, no. 4, pp. 843-930.

14 This was in fact already captured by the statement of the 14th century postglossator of Roman law Baldus that ‘territory and jurisdiction go together as mist to a swamp’. See Elden, *supra* note 8, p. 36, fn 149.

15 An example is the controversy over the geographic reach of the EU Aviation Directive, which in 2008 subjected foreign air carriers to an EU emissions trading scheme, insofar as their flights arrived at or departed from an EU aerodrome. In its ATA judgment (2011), the Court of Justice of the EU held that this legal arrangement was covered by the customary law principle of territoriality (Case C-366/10, *Air Transport Association of America*, [2011] I-13755, para. 101), whereas foreign carriers and States considered it to be extraterritorial in that it covered mileage outside EU airspace. In an interconnected world, any activity may produce global effects, thereby potentially triggering the territorial jurisdiction of a panoply of interested States. However, as these effects are often indirect and the regulating State’s nexus to the situation is accordingly weak, its jurisdictional assertions may easily be denounced as *extraterritorial*.

create spatial and personal enclaves of extraterritoriality in order to exempt particular areas and persons from the reach of the (regular) law.

Four examples, one of them historical, could be given here. In the 19th century, Britain created protectorates in Africa not just to take over African kingdoms' conduct of foreign affairs and protect them against external threats but also to preclude the application of binding British anti-slavery laws (which would apply only in case of full exercise of sovereignty) and to prevent that British nationals would be subject to 'uncivilized' African law.¹⁶ In the current era, the United States tried to shield itself from accountability under US constitutional and international law regarding its treatment of 'enemy combatants' captured on the battlefield in Afghanistan, by relocating them to the non-US, Cuban-leased territory of Guantanamo Bay.¹⁷ A similar evasion technique is tried by the UK, which attempts to limit the application of human rights law to not include wrongful conduct that took place in the context of overseas UK military operations,¹⁸ and by Israel, which simply denies the applicability of human rights law to the occupied territories.¹⁹ Furthermore, throughout the centuries, States have reciprocally accepted that diplomatic representatives accredited to other States are not amenable to suit in the latter (i.e., they enjoy immunity from jurisdiction), not even in respect of clearly territorial conduct,²⁰ as well as that embassy premises are inviolable.²¹ These rules on immunity and inviolability have an extraterritorial dimension, for they hamper territorial accountability and enforcement.²²

Such extraterritorial arrangements have an exclusionary effect – they exclude the normal reach of territorial law. Nevertheless, they hardly weaken the territorial, State-based world order. After all, States rely on them to their greater glory. These arrangements withdraw the usual rule of law protections from certain persons and areas and strengthen State power by limiting State accountability. They further cement the political status quo that is informed by territorial narratives. Thus, both territoriality and extraterritoriality, as currently understood, tend to further entrench State powers and reproduce the salience of boundaries, at times to the detriment of rule of law protections.

As the artwork of the *Exterritory* project demonstrates, States' exclusionary extraterritorial ventures may be accompanied by 'visual extraterritoriality' stratagems aimed at minimizing accountability arising out of such ventures. Techniques of non-transparency, invisibility, image blockades and 'black sites'²³ may prevent uncomfortable truths about extraterritoriality from coming to light. In its artwork, the *Exterritory* project tries to artistically represent such techniques, inviting the viewer to reflect on, and unmask, political strategies of obscuring political authority and ultimately to imagine new (re-)presentations of it.

It is the goal of this contribution to reopen the space for contestation of political territoriality and to explore novel, 'post-territorial' conceptualizations of the exercise of political authority that may better represent the dramatic technological, ethical and social changes which our world has experienced lately.

In particular, the rise of the Internet and the emergence of virtual, data-driven communities have brought the future of the time-worn notion of territoriality into stark relief. Is territory still an adequate representation of the exercise of authority and of individuals' allegiance and identity? Is such authority not better represented in a non-territorial fashion, with jurisdiction tracking the formation of 'transnational' social and normative communities?

16 I. Van Hulle, *Britain, West Africa and the Formation of Imperial International Law (1807-1885)*, PhD thesis KU Leuven (2016).

17 Although the Supreme Court dismissed the Government's arguments that the right of habeas does not apply because Guantanamo bay was not on American territory on the basis that it was still under the Government's control (*Rasul v Bush*, 542 U.S. 466 (2004)). Subsequent legislative acts preventing US court jurisdiction over enemy combatants at Guantanamo were overruled: 'extraterritoriality questions turn on objective factors and practical concerns, not formalism' (*Boumediene v. Bush*, 553 U.S. 723 (2008)).

18 The UK has argued that 'the HRA [Human Rights Act] has no application to acts of public authorities outside the borders of the UK. The Act has, in legal parlance, no extra-territorial application' (*Al-Skeini v Secretary of State for Defence* [2007] UKHL 26, para. 4). The European Court of Human Rights, however, has decided that in exceptional circumstances, the European Convention on Human Rights does apply extraterritorially to military operations (*Al-Skeini and Others v UK*, Decision of 7 July 2011, app. no. 55721/07).

19 UN Doc. CCPR/C/78//SR/Add.1 (2007).

20 1961 Vienna Convention on Diplomatic Relations (VCDR), 500 *United Nations Treaty Series*, p. 95, Art. 31.

21 *Ibid.*, Art. 25.

22 Formally speaking, however, it is incumbent on diplomatic personnel to comply with territorial law. *Ibid.*, Art. 25.

23 V. Keating, 'The anti-torture norm and cooperation in the CIA black site programme', (2016) 20 *The International Journal of Human Rights*, no. 7, pp. 935-955.

Technological progress in cyberspace and communications may more generally also (further) unlock cosmopolitan sentiments. Modern communication's transcendence of the traditional boundaries imposed by time and space might nurture individuals' and collectives' sentiments of solidarity with distant, non-territorial others, especially if such communication involves the dissemination of *images* representing and conveying the suffering of what would otherwise be the unknown other. Such sentiments could yield *inclusive* rather than exclusive institutional responses unimagined by earlier Westphalian theories grounded on hermetic territoriality. A fine example is offered by the exercise of universal jurisdiction – i.e., domestic jurisdiction not based on a territorial link – over atrocities committed abroad. From the theoretical perspective espoused in this special issue, such jurisdiction has important *representative*, *inclusive* and *visual* dimensions. The State exercising it acts as representative or agent of the international community shocked by the heinousness of the crimes, it *includes* remote victims within the protective scope of its 'extraterritorial' legislation, and it is often triggered by the dissemination of shocking *visual images* of victims of indiscriminate bombardments of civilian areas. These dimensions, as they pertain to other assertions of authority, also return in the (other) contributions to this issue.

One should understand that the analytical purchase of territoriality is not necessarily lost in the face of these technological and moral evolutions. Even cyberspace, for all its virtual trappings, has a physical infrastructure, consisting of *actual* computers, servers, cables and human beings running and using the system.²⁴ If cosmopolitan duties, for their part, are not to remain theoretical and illusory, they need physical implementation by actual duty-bearers vis-à-vis actual beneficiaries by means of actual acts of assistance delivered to an actual place on Earth. The discharge of such duties, moreover, may be done most efficiently by institutional actors, of which *the territorial State* is the most mature and well-organized.

It is arguably more appropriate then to describe our current world as a hybrid of territory and 'exterritory'. In the digital context, the term 'onlife world' has caught on in this respect, a term denoting how '[t]he deployment of information and communication technologies (ICTs) and their uptake by society affect radically the human condition, insofar as it modifies our relationships to ourselves, to others and to the world.'²⁵ The abiding challenge facing the 'extraterritorial' cosmopolitan programme, is building the bridge to the physical immediacy of duty-bearers and beneficiaries. In the process of translating this programme into actual action, high-minded aspirations may run up against protests from expected cosmopolitan givers and takers alike. When solidarity has to be concretely rolled out, people in the global North may dig in their heels, as the refugee crisis amply demonstrates.²⁶ Conversely, people in the global South may be suspicious of cosmopolitan, Western-devised benevolent assistance programmes, fearing, not unreasonably, a return to the civilizing mission of colonial times.²⁷

It is both scholars' and artists' task to unearth, represent and critique, in writing or visually, this eternal tension between our immediate experience of territory, physicality and visibility, on the one hand, and our

24 For instance, data regarding a person's email accounts are 'physically' stored on a server in a particular State. When another State wishes to have access to such data, e.g., in the context of a criminal investigation, it will have normally need to file a request for mutual legal assistance with the State of data location. The US Department of Justice was of the view that it could *unilaterally* access such data, by issuing a warrant against the US Internet provider (Microsoft) controlling the email service (Hotmail), ordering it to produce relevant data stored on a server in Ireland. A US Court of Appeal rejected this right of unilateral access, however. *In the Matter of a Warrant to Search a Certain E-Mail Account Controlled and Maintained by Microsoft Corporation*, *Microsoft v USA*, Judgment of 14 July 2016, US Court of Appeals for the Second Circuit, Docket No. 14-2985.

25 L. Floridi (ed.), *The Onlife Manifesto: Being Human in a Hyperconnected Era* (2015). This collates the work of 'The Onlife Initiative: concept reengineering for rethinking societal concerns in the digital transition', a research project organized by the European Commission, but it does not necessarily reflect the official opinion of the EU. Mireille Hildebrandt develops the argument regarding the 'onlife' world at greater length in her contribution to this special issue.

26 Also, as regards the aforementioned exercise of universal jurisdiction, it is observed that actual instances of prosecution, let alone trial have been extremely rare – which is probably explained by problems of capacity and political willingness. See for data: M. Langer, 'The diplomacy of universal jurisdiction: the political branches and the transnational prosecution of international crimes', (2011) 105 *American Journal of International Law*, no. 1, pp. 1-49. The exercise of extraterritorial jurisdiction of corporations involved in the overseas commission of international crimes is even entirely absent. Only one (Swiss) investigation has been reported – against the Swiss gold refiner Argor-Heraeus in respect of allegations that it illegally processed looted gold from the Democratic Republic of the Congo, thereby fueling the vicious civil war going there – but in 2015 Swiss prosecutors decided to discontinue the prosecution on the ground that 'it [was] not clear (...) that the defendants had any doubts as to, or concealed any evidence of, the criminal origin of the gold'. Open Society Justice Initiative, 'Swiss Decision Undermines Efforts to End Conflict Resource Trade', press release, 2 June 2015.

27 E.g., the failure of the US-led drive to impose democracy on the Middle East. For a critique of this drive: K. Dalacoura, 'US democracy promotion in the Arab Middle East since 11 September 2001: a critique', (2005) 81 *International Affairs*, no. 5, pp. 963-979.

more abstract aspirations of extraterritory, distance and *kosmopolis*, on the other hand. It is our hope that the contributions to this special issue help the reader navigate this tension.

Three scholars have been willing to take up the challenge of linking images with legal theory. This has resulted in two articles, one by Mireille Hildebrandt²⁸ and one by Wouter Werner and Geoff Gordon.²⁹ Methodologically, these articles fit in a tradition of ‘post-positivist’ scholarship,³⁰ i.e., scholarship that critiques positivism by relying on other disciplines and narratives, *in casu* artistic representations. It is recalled that positivism is an epistemic stance pursuant to which objective knowledge is derived from what is (empirically) observable.³¹ Post-positivists doubt this objectivity insofar as the observer may not be a neutral agent: (s)he approaches the object of observation on the basis of her/his own values and beliefs and thus reaches conclusions that may be biased.³² In legal theory, post-positivists open up a space for critique of ‘the law as it is’ by highlighting its non-neutral content, interpretation and application. In so doing, they catch a glimpse of possible alternative worlds.

Mireille Hildebrandt engages with the challenges posed by the aforementioned ‘onlife’ world – the co-constitution of cyberspace and physical space – for the exercise of authority and the safeguarding of basic rule of law protections. Problematizing rather than solving, she inquires how law in the onlife world can speak to power, cognizant of the fact that the borders of cyberspace are networked and mobile, and thus possibly not amenable to sustain legal certainty. The challenge for her is to come to grips with the ‘virtual reality’ of the idea of a jurisdictional border, which eventually she considers as aimed at preventing ‘vertiginous insecurity’ and existential anguish. This virtual reality has been actualized as a *territorial* jurisdictional border, but re-actualizing it in an era of de-territorialized cyberspace is not obvious. She tentatively suggests to reconfigure ‘the role of territorial borders as part of a more complex, multi-layered set of jurisdictions’.

In this process of virtualization and re-actualization, Hildebrandt is inspired in part by earlier philosophical work (Deleuze, Lévy), but also by the artwork *Image Blockade*, an experiment which examines the brain activity responses of 8200 Israel secret elite intelligence unit veterans to a letter of refusal signed by peers in their unit.³³ She argues that brain images produced by machines are just one mediated view of the reality of the brain, creating a virtual reality that should be confronted with other views. At the same time, the reality created by the brain itself is also a virtual one that may meet resistance in real-life scenarios. Her argument is that jurisdictional borders created by collective subjects – composed of aggregate individual brains – are equally virtual and that the process of actualization should be guided by democratic (participatory) and agonistic (resistance-based) processes. Such processes may well produce an actual jurisdictional reality that fundamentally differs from the current territorial order.

Wouter Werner and **Geoff Gordon** argue that the aforementioned tension between celestial cosmopolitanism and (territorial) immediacy is not new but was in fact foreshadowed by the work, or at least the views, of the ancient Greek philosophers Diogenes and Zeno. While Diogenes presented a ‘cynical’ world view characterized by obstinate local, territorial resistance to conventions, Zeno developed a more programmatic cosmopolitan philosophy that was meant to apply universally. Universality, however, is in need of territoriality and actual institutions to be implemented, while territorial and institutional constraints may at the same time disenchant advocates of pure and even-handed universality. Werner and Gordon illustrate this tension by highlighting the role of the International Criminal Court, which aspires to a universal remit over crimes

28 M. Hildebrandt, ‘The Virtuality of Territorial Borders’, (2017) 13 *Utrecht Law Review*, no. 2, <http://doi.org/10.18352/ulr.380>, pp. 13-27.

29 G. Gordon & W. Werner, ‘Between the Dog and the Divine: Resistance and conventionalism in cosmopolitanism’, (2017) 13 *Utrecht Law Review*, no. 2, <http://doi.org/10.18352/ulr.381>, pp. 28-36.

30 J. Zammito, *A Nice Derangement of Epistemes: Post-positivism in the study of Science from Quine to Latour* (2004).

31 For the classic text: J.S. Mill, *Auguste Comte and Positivism* (1866).

32 See on the political bias of academic research, e.g., J. Zipp & R. Fenwick, ‘Is the academy a liberal hegemony? The political orientations and educational values of professors’, (2006) 70 *Public Opinion Quarterly*, no. 3, pp. 304-326. In 2017, the Dutch Parliament even adopted a motion instructing the Dutch Academy of Sciences to investigate ‘the restriction of the diversity of perspectives in Dutch science’ on the basis of an initiative of two right-wing members of parliament apparently intent on exposing academia’s left-wing bias. *Kamerstukken II* 2016-17, 34550 VIII, no. 120, 2 February 2017.

33 R. Sela & M. Amir, *Image Blockade*, 2015, video, 38:20 min. <<https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/ILE4YW>>.

shocking the conscience of mankind but which is, as a legal-political institution, hamstrung by treaty-based jurisdictional constraints and real-world politics that restrict the selection of relevant situations, as well as State cooperation with the Court.

Werner and Gordon see similar dynamics of cosmopolitanism and territorial immediacy at work in two artworks produced by the *Exterritory* project, both relating to the Gaza flotilla missions. One work contains footage of preparatory sessions for activists who were about to leave for the 2011 flotilla mission,³⁴ and another contains stills from an Israeli TV news report related to the Israeli capture of the Mavi Marmara,³⁵ one of the ships of the flotilla. The former work takes the perspective of the activists, whereas the latter takes that of (members of) the Israeli Defense Forces (IDF). Both works have in common that they project images of inhumanity, thereby intending to trigger the viewer's cosmopolitan sentiments. At the same time, however, the works are, through the visual images used, grounded in territorial immediacy too, as a motivation technique to spur relevant actors into actual action. The practical training session is, for one, as Werner and Gordon put it, aimed at 'empower[ing] the activists to fight with non-violent means for the good cause of the mission'. The graphic video stills, which concentrate on the immediate violence done by the activists to a loyal IDF soldier, are aimed at eliciting cosmopolitan sympathy with the latter's suffering caused by 'terrorists'. However, the stills also have an 'extraterritorial' dimension, in the aforementioned sense of invisibility and image blockade, in that the face of the soldier is blurred. To a certain extent, this blurring allows the IDF's extraterritorial action – the Mavi Marmara was intercepted on the high seas, i.e., an area beyond national jurisdiction – to be compounded by masking techniques which limit options for identification and accountability. Still, the work suggests the moral ambiguousness of such second-order extraterritoriality (invisibility), as invisibility may justifiably protect the mere *executors* (soldiers) of first-order extraterritoriality devised by military planners, even if these executors are the only physical face of the operation.³⁶

We are grateful that *Utrecht Law Review* was willing to publish this mini-special issue. We hope the respective contributions have shown how a fruitful intellectual images-informed conversation between artists and scholars can take place. This conversation problematizes our preconceptions of place, space, and territory, but at the same time drives home the point that abstract political governance ideas always need a concrete spatial form. Inevitably, the nexus between governance and space allows for a spatial politics which uses the legal concepts of territoriality and extraterritoriality for political purposes. As can be gleaned from the images and commentaries, such politics is never neutral, it could include or exclude, and it could improve or worsen human security. ■

³⁴ R.Sela&M.Amir, *ScenariosPreparations*, 2015,video,35:20min.<<https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/WIM3AS>>.

³⁵ *Image Blockade* (Works and Research Created within the Frame of Exterritory Project), The Center for Contemporary Art, 30 July-26 September 2015, Tel-Aviv. <<https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/PPBX1W>>. See also G. Peleg, 'Commando Unit Warrior is Prosecuting: "I Thought They Were Going to Execute Me"', Channel 2 News, 11 April 2014: <<http://www.mako.co.il/news-law/legal/Article-6cf8a45b4e15541004.htm>> (last visited 16 April, 2014).

³⁶ On the basis of a deal struck between Turkey, from which the Mavi Marmara had sailed, and Israel in August 2016, all those involved in the operation would evade accountability. Under the deal, Israel will make an ex gratia payment of 20 million USD to Turkey as compensation for the death of the ten activists killed by the IDF aboard the ship. In return, the deal will constitute 'full release from any liability of Israel, its agents and citizens with respect to any and all claims, civil or criminal, that have been or will be filed against them in Turkey, direct or indirect, by the Republic of Turkey or Turkish real and legal persons, in relation to the flotilla incident'. At the time of writing, it was still uncertain whether this deal could block a case filed with Turkish courts, in absentia, against four Israeli generals involved in the operation. See 'Israel and Turkey Formalize Landmark Reconciliation Pact', *Haaretz*, 28 June 2016; 'Victims of Israeli attack on Gaza flotilla fear legal case will be dropped', *The Guardian*, 18 October 2016.