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Introduction

On an international flight to Colombia in mid 2009, I came across a map of Bogotá in the inflight magazine. Amongst commercial publicity and articles about Colombia's tourist attractions, the map stood out. It occupied two colour pages, and it depicted a series of new residential projects being built in the city by a transnational construction company. Although it portrayed Bogotá's cartography in a cartoonish manner and seemed only to serve a commercial purpose, I was struck by how closely the map's view of the city mirrored the form in which local administrations have been attempting to shape the human and physical spatiality of Bogotá since the early 1990s, when the city embarked upon a massive process of urban renewal that has gained wide international recognition. Since this time, when Colombia as a whole embraced an international trend for the decentralization of development efforts in the Third World, a series of proactive mayors in Bogotá has engaged in rebuilding a city that overcomes Colombia's image as an 'underdeveloped' and 'failed state'. Through norms, policies and administrative and physical interventions, local administrations have been attempting to marry global ideals of social and economic development with a tight control over the cartography of Bogotá. Their aim has been to create a city that is sustainable in human and financial terms; an attractive locality well defined by its jurisdictional frontiers and surrounded by a green belt; a city that is competitive and well connected thanks to a state-of-the-art public transport system, an improved network of roads and new airport facilities. The map thus offered a representation of Bogotá in its best possible light: as a harmonious, ordered, internationally appealing, sustainable and evenly developed local jurisdiction that exists beyond contradictions. A city ready to be consumed by the passengers on my flight (see Figure 1.1).

Looking at the map from the air, Bogotá was presented for the transnational observer as a graspable and neat unit which could be compared to other cities of a cosmopolitan world – a world that tries to escape from its memories of hard borders, national parochialisms and

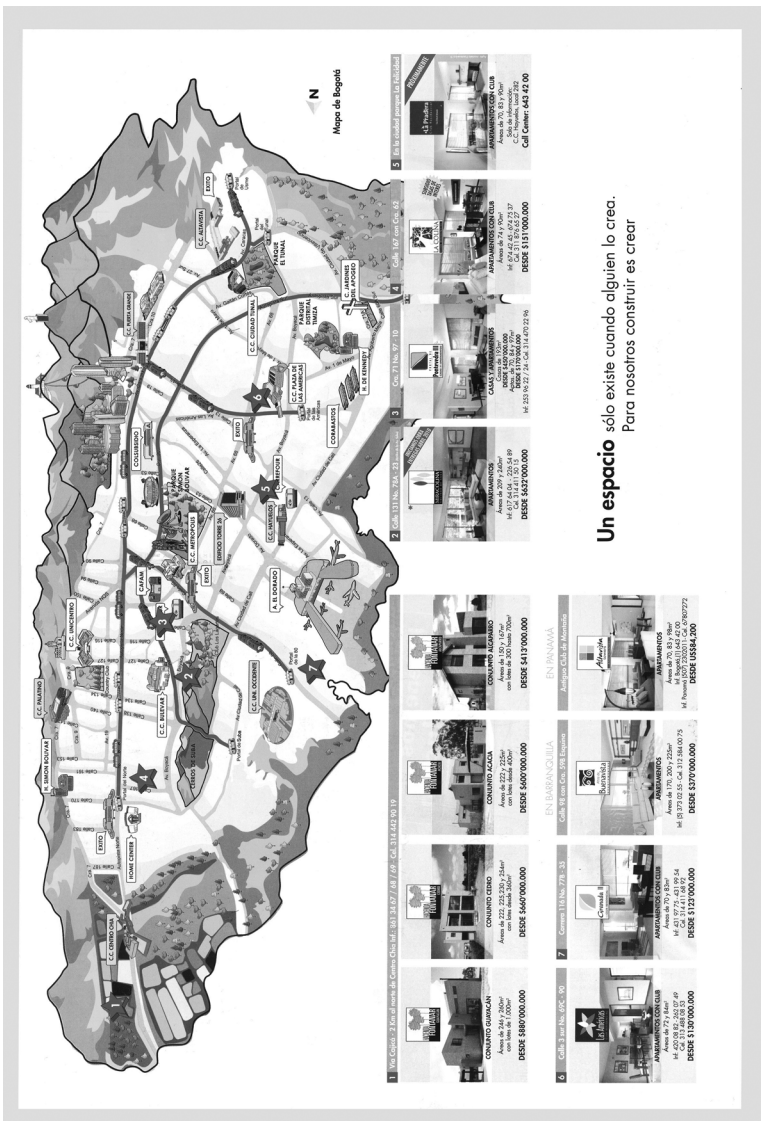

Figure 1.1 Map of Bogotá by a private housing developer.
Courtesy of the company

stagnant state regulations: a true international world. The very fact of looking while flying – while crossing lands so rapidly and smoothly – helped to lubricate this act of observing the city as a free place: a destination within a global circuit of economic and cultural flows.

What most fascinated me about the map, however, was that it depicted all of these developmental ambitions as if they had already been accomplished: as if the city had already overcome the backwardness of which it was accused, thus fulfilling (in a fictionalized way) the teleology of decentralized development. To achieve this leap into the future, the map had to do a couple of things. Firstly, it removed Bogotá from the problematic nation-state to which it belongs. Bogotá appears in the map not only fully organized by its official cartography and development norms and ambitions but also literally floating by itself on a pristine white background. Colombia is absent.

Secondly, and perhaps more problematically, the map occluded all the illegal neighbourhoods that occupy the peripheral areas of Bogotá from its depiction (see Figure 1.2). Instead of illegal neighbourhoods and their

Figure 1.2 A combination of illegal and recently legalized neighbourhoods located on Bogotá's north-eastern hills that do not appear on Figure 1.1.
L. Eslava 2009

residents or the eroded lands on which they are located, one could see on the map only uniform patches of green vegetation surrounding the city.

In presenting a city that could exist in parallel with its problematic national surroundings, and a city that was 'slum-free', the map exposed for me some of the contradictions that characterize Bogotá's urban revolution – the same contradictions that I had been examining over the previous few years and that were the reason for my being on an international flight to Bogotá once again.

In the map's illustration of the city, Bogotá's most ambitious aspirations were mimicked and magnified. But looking at the map of the city from my seat high above in the sky, I felt that this advertisement was not simply designed to expand the profits of the transnational construction company behind it. It was also an opportunity to enchant the transnational passengers of my flight, who could all rejoice in a view of Bogotá as exemplifying a new decentralized world in which dynamic cities are given their chance to strive for their internationalization and development – something that the city of Bogotá had certainly achieved to some degree in recent years. Bogotá appeared as a promising city where financial investments were lucrative and towards which a sentimental attachment should flow naturally.

At the same time, however, with its violent abstractions, the map had the effect of silencing the profound struggles embedded in the spatial and human governance strategies behind the model of decentralized development that has been driving Bogotá's urban revolution. This model promotes a regime of governance that is predicated on a firm control over local territory and population, and that aims to be compatible with both progressive global ideals of social justice and a flexible approach towards market forces. This regime of governance has meant that nation-states like Colombia are increasingly sharing their formerly supreme role in the organization of the world with subnational administrative units, and that the international legal and institutional order is becoming increasingly present in the daily running of local administrations and residents' affairs. This has been experienced in Bogotá via the International Monetary Fund (IMF) conditionalities imposed on Colombia that affect local finances and the provision of services, as well as the city's interaction with multilateral institutions of development.[1]

[1] See especially my discussion of these points in Chapters 2–4.

Besides these extremely important changes, the new decentralized regime of governance has also been accompanied by a particular set of local administrative, spatial and human transformations that have altered the way in which localities and their residents are organizing their geographies and their internal and external relations. In the case of Bogotá, as the map illustrated only too clearly, the city's development promises are increasingly dependent on a fine calibration of who is inside and who is outside the map of the city. This decision depends, in turn, on the larger aim of the local administration to have a city well organized by its jurisdictional frontiers and its new development order and norms.

The more I looked at the map, as a result, the more I felt that it would be inadequate simply to describe it as misleading. The map was instead aspirational, or rather *re*-creational. The map was like a text in which the boundary between fiction and non-fiction had begun to disappear, such that each side of the familiar antagonism between *reality* versus *fantasy* – or in this case, between *reality* versus *normative descriptions* – had been transformed into epiphenomena of each other. By the mere act of blurring this boundary, a parallel space seemed to have emerged: one that was not simply utopic. For, in a proper sense, the space created by the map was heterotopic. With its fictional character, the map offered an alternative reality, yet at the same time, through its excesses, the map disclosed Bogotá's development aspirations, becoming in this way a fine representation of the new global regime of governance in which the city was now destined to operate. Using Foucault's words, one could say that the map, as a heterotopic text, aimed 'to create a space that is other, another real space, as perfect, as meticulous, as well arranged as ours is messy, ill constructed, and jumbled'.[2]

In my own experience of studying Bogotá, the gap that I saw emerging from this contraposition between the city's reality with its 'jumbledness', and the normative prescriptions now deployed upon the city's territory and population, was not merely a matter of a resilient distance between a *de jure* idea of the city and a *de facto* order. Instead, I had learnt how this gap between normative descriptions and the reality of the city had become, in fact, a very productive source of norms, administrative practices, and physical and human exercises that aimed to make Bogotá less 'messy' and more 'meticulous'. As I have confirmed over the years,

[2] Michel Foucault, 'Of Other Spaces', (1986) 16 *Diacritics*, 22, 27.

the key to the successful materialization of a decentralized global world within and around the city has seemed to reside in the diverse means that have been employed to close this gap.

For all of these reasons, the map seemed to me to represent a contemporary version of Bogotá's early years as a Spanish colonial settlement, when the city was laid out following a rigorous plan that aimed to create a new reality through urban planning laws and very particular ideas of social advancement.[3] The crude violence of the colonial exercise was, of course, not part of the direct economy of the map that lay in front of me during that international flight. But this modern map was still violent, in a more subtle and perhaps more insidious way. The brutality of the conquerors had been replaced, on the one hand, by the commercial initiative of the transnational construction company which, moved by its pursuit of financial gain, had decided to captivate the hearts of potential investors through a glorifying representation of Bogotá. On the other hand, the map replaced colonial practices with the apparently apolitical development ideals and legal-technocracy involved in the current reconstruction of the city and of the world as a decentralized place.

The map managed to convey, as a result, the form in which Bogotá and its residents had been (and continue to be) reorganized through a very particular set of images, desires and instructions – one that has both a local and an international dimension, and a capacity to obfuscate the contradictions that have accompanied the city's massive process of urban renewal. Suspending Bogotá's relationship with Colombia both asserted that the city had (or should have had) the capacity to override the 'state failures' of its nation, and pointed to the profound transformations that the international order and the nation-state form have been suffering over the past decades. At the same time, the act of disappearing the city's illegal neighbourhoods illustrated the strong arguments that have been made for the strategic inclusion, and also for the strategic containment and removal, of illegal neighbourhoods from the periphery of the city in recent years.

[3] See, e.g., Mónica García-Salmones and Luis Eslava, 'Jurisdictional Colonization in the Spanish and British Empires: Some Reflections on a Global Public Order and the Sacred' in Hélène Ruiz Fabri, Rüdiger Wolfrum and Jana Gogolin (eds.), *Select Proceedings of the European Society of International Law, Vol. 2* (Hart Publishing, 2010), 53; Luis Eslava, 'El Derecho Urbano en un Mundo Globalizado' in Mauricio Rengifo and Juan F. Pinilla (eds.), *Introducción al Derecho Urbano* (Temis, 2012), 23.

As my flight was about to land, it struck me that in the process of (re)creating Bogotá, the motto used by the transnational company was also peculiarly canny. The motto was: 'A space only exists when someone builds it. For us, building is creating.' (*Un espacio solo existe cuando alguien lo crea. Para nosotros construir es crear.*)[4] With these words, the motto neatly conveyed the central idea of development, together with its vast quantity of accompanying (international, national and local) norms and policies, as a passionate yet pragmatic exercise that can only bear fruit once material and human realities have been made to fit a specific set of economic, social, spatial and administrative prescriptions. As Arturo Escobar has noted, it is only when our surrounding realities have been rendered through the lenses of development and its norms, and their images and expectations, that

> individuals, societies and economies can be subjected to the scientific gaze and social engineering scalpel of the [development] planner who, like a surgeon operating on the human body, can then attempt to produce the desired type of social change.[5]

Looking at the map, however, I was also reminded that this process of developmental and legal interventions in Bogotá was connected to a more general call to 'internationalize' Third World localities. Local jurisdictions across the South have been reimagined, as in the case of Bogotá, by international institutions, international associations of local governments, development donors, national governments and local elites, as the new key sites of global ordering; places in which an increasingly proactive international normative and institutional system, working through and beyond the figure of the nation-state, can finally bring about the development of the Third World.

I turn in the next section to the general background that explains the current international attention to local jurisdictions and the ways in which I have engaged – at the substantive and methodological level – with the unfolding of this project in the city of Bogotá. After this section, I outline the content of each chapter of the book. I conclude this introduction with a brief account of the different sources of information that I have used in my analysis.

[4] All translations are the author's except where otherwise noted.
[5] Arturo Escobar, 'Planning' in Wolfgang Sachs (ed.), *The Development Dictionary: A Guide to Knowledge as Power* (Zed Books, 1997), 132, 134.

1.1 Research scope

1.1.1 A shifting global order and the troubles of the nation-state

Since the final quarter of the twentieth century, the capacity and authority of nation-states to exercise hegemonic power over their territory and population has been increasingly called into question. In particular, there has been a growing international concern about the ability of nation-states to be present over the whole extent of their territories, about their competence to intervene in the national economy, and about their capacity to provide welfare and security to their populations. Furthermore, it has been claimed that national governments are incapable of legitimately representing their national citizenries, increasingly diverse in terms of ethnic, religious, cultural and territorial alliances. Though still the archetypal form for the organization of political, social and economic life, the nation-state – as a centralized and homogenous entity – has recently found itself in trouble.

In the international context, these critiques of the nation-state have nowhere been expressed in more dramatic terms than in the World Bank's *World Development Report: The State in a Changing World*. According to the World Bank:

> The end of the Cold War and the collapse of command-and-control economies, the fiscal crises of welfare states, the dramatic success of some East Asian countries in accelerating economic growth and reducing poverty, and the crisis of failed states in parts of Africa and elsewhere – all of these have challenged existing conceptions of the state's place in the world and its potential contribution to human welfare. Governments are also having to respond to the rapid diffusion of technology, growing demographic pressures, increased environmental concerns, greater global integration of markets and a shift to more democratic forms of government. And amid all of these pressures remain the formidable – and persistent – challenges of reducing poverty and fostering sustainable development. It is not surprising, then, that countries are again putting the state under scrutiny.[6]

[6] The World Bank, *World Development Report 1997: The State in a Changing World* (1997), 17. See a similar diagnosis in The World Bank, *World Development Report 1996: From Market to Plan* (1996). For a detailed, and still current, discussion of these reports, see Philip Alston, 'The Myopia of the Handmaidens: International Lawyers and Globalization', (1997) *3 European Journal of International Law*, 435; Anne Orford and Jennifer Beard, 'Making the State Safe for the Market: The World Bank's World Development Report 1997', (1998) 22 *Melbourne University Law Review*, 195; William Munro et al., '"The State in a Changing World"; *plus ça change*?: Reflections from the South on the World Bank's 1997 World Development Report', (1999) 11(1) *Journal of International Development*, 75.

With this diagnosis, the World Bank not only crystallized what it perceived as the urgent need to rethink the form and substance of the state, but it also made clear how the challenges faced by nation-states have been accompanied by an intense transformation of the international system. A plethora of public, private and semi-public actors, institutions and regulatory bodies (including NGOs, Multinational Enterprises and international institutions like the World Bank itself), as well as the international concerns and values that they purport to represent (e.g. sustainable development, poverty reduction, global integration of markets and the promotion of democratic forms of government), now claim a separate and arguably superior position to the nation-state and its traditional claims of self-determination and sovereignty over internal affairs.[7] These new international and transnational actors have been announcing the expansion of the international legal, institutional and administrative order, and the reconfiguration of the international as a global jurisdiction in its own right.[8] This has led some commentators to observe that we already occupy a post-inter/national moment, with its own model of global governance and its own global law.[9] As Matthew Craven has recently put it, the common affirmation that the nation-state is the prime actor of the international order has become 'an antiquated, if not wholly misleading, proposition'.[10]

[7] See, e.g., David Kennedy, 'A New World Order: Yesterday, Today, and Tomorrow', (1994) 4 *Transnational Law and Contemporary Problems*, 329; Anne Orford, 'Locating the International: Military and Monetary Interventions after the Cold War', (1997) 38 *Harvard International Law Journal*, 443; Anne-Marie Slaughter, *A New World Order* (Princeton University Press, 2004).

[8] See for an early examination of these developments, Wolfgang Friedmann, *The Changing Structure of International Law* (Columbia University Press, 1964). See especially Martti Koskenniemi and Päivi Leino, 'Fragmentation of International Law? Postmodern Anxieties', (2002) 15(3) *Leiden Journal of International Law*, 553; Martti Koskenniemi, 'The Politics of International Law – 20 Years Later', (2009) 20(1) *European Journal of International Law*, 7. See also Veijo Heiskanen, 'Introduction' in Jean-Marc Coicaud and Veijo Heiskanen (eds.), *The Legitimacy of International Organizations* (United Nations University Press, 2001), 1.

[9] See, e.g., on discussions about postnationalism, Trudy Jacobsen, Charles J. G. Sampford and Ramesh C. Thakur (eds.), *Re-envisioning Sovereignty: The End of Westphalia?* (Ashgate, 2008). On global governance, Rorden Wilkinson and Steve Hughes (eds.), *Global Governance: Critical Perspectives* (Routledge, 2002). On global law, Gunther Teubner (ed.), *Global Law without a State* (Dartmouth, 1997); Benedict Kingsbury, Nico Krisch and Richard B. Stewart, 'The Emergence of Global Administrative Law', (2005) 68 *Law and Contemporary Problems*, 15; David Kennedy, 'The Mystery of Global Governance', (2008) 34 *Ohio Northern University Law Review*, 827.

[10] Matthew Craven, 'Statehood, Self-Determination, and Recognition' in Malcolm Evans (ed.), *International Law* (Oxford University Press, 3rd edn., 2010), 203, 206.

These changes in the operational mode of nation-states and the international legal and institutional order are crucial for the discussion advanced in this book. Here, however, I discuss the transformations that have been occurring simultaneously on a different jurisdictional scale: the local. I do so because it is within and around local jurisdictions (our municipalities, cities, metropolitan areas, etc.) that many aspects of this new global political and normative reordering are taking shape. And it is also within and around local jurisdictions that we can evaluate most clearly what all of these changes mean for the present nature and functioning of international law.

1.1.2 Substantive scope: a world around local jurisdictions

Sociologists, anthropologists, political scientists, urban planners, geographers and cultural theorists have been arguing since the early 1990s about the central economic, political and social functions of 'the local' in the current global order. These conversations have usually occurred under the banner of 'Global Cities' and the inescapable 'glocal' character of contemporary international commercial and cultural flows.[11] Although my analysis is informed by the way in which these studies have approached questions about today's global ordering as a deeply socio-anthropological process that is permanently articulated through localized realities, my main focus in this book is jurisprudential, or legal in the broad sense.

My interest lies in the question of how (international, national and local) normative frameworks, in close relationship with development ideals, are currently being deployed to construct local space and subjects that are attuned with global expectations. I explore how local space and local residents in the Third World have become both an object and a project of the international legal order and the enterprise of development – both of which had previously posed nation-states and their

[11] See, e.g., on Global Cities, Neil Brenner and Roger Keil, *The Global Cities Reader* (Routledge, 2006). See, e.g., on *glocalization*, Erik Swyngedouw, 'Neither Global nor Local: "Glocalisation" and the Politics of Scale' in Kevin Cox (ed.), *Spaces of Globalization: Reasserting the Power of the Local* (Guilford Press, 1997), 137; Zygmunt Bauman, 'On Glocalization: or Globalization for Some, Localization for Some Others', (1998) 54(1) *Thesis Eleven*, 37. See generally on the global and local relationship, Jonathan Xavier Inda and Renato Rosaldo, *The Anthropology of Globalization: A Reader* (Blackwell, 2008). See more recently the special edition of the journal *Globalizations* on 'Global Ideologies and Urban Landscapes', 7(3) (2010).