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978-1-107-09212-9 - Local Space, Global Life: The Everyday Operation
of International Law and Development

Luis Eslava

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LOCAL SPACE, GLOBAL LIFE

Local Space, Global Life engages with the expansive, ground-level and intertwined operations of international law and the development project by discussing the current international focus on local jurisdictions. Since the mid 1980s, and through the discourse of decentralization, municipalities and cities in emerging nations have become the preferred spaces in which to promote global ideals of human, economic and environmental development. Through an ethnographic study of Bogotá's recent development experience and the city's changing relation to its illegal neighbourhoods, Luis Eslava interrogates this rationale and exposes the contradictions involved in the international turn to the local. Attentive to historical and current transformations, norms and praxis, and both ideology and materiality, he provides an innovative reading of the nature of international law and the development project, and reveals their impact on local spaces and lives at the urban periphery of today's world order.

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For Martin and Tomas

A distant voice says:

*While our goals are global, they can most effectively be achieved
 through action at the local level.*

Kofi Annan, UN Secretary General (2005)

The social philosopher confirms:

*[A] good sovereign . . .
 is someone well placed within a territory.*

Michel Foucault (2007 [1978])

The foundational norm validates:

*Article 1. Colombia is a Social Rule of Law State; organized as a united
 Republic, decentralized, with autonomy in its territorial entities . . .*

Colombia, Constitution (1991)

And, eventually, someone replies:

Bogotá is emerging as one of the world's most dynamic cities.

The World Bank (2007)

However, a subject refutes:

. . . we are in a totally marginal place.

Orlando Márquez, Leader and Resident in Bogotá's illegal
 periphery (Interviewed by the author, May 2009)

But the official clarifies:

*In order to have the people's recognition you must have the entire
 territory of the city integrated and harmonized . . . if not, you lose
 everything. And [Bogotá] has been doing this. However, I am not
 saying the city already has all its territory beautiful and integrated . . .
 It is important to advance cautiously.*

Angela Lizcano, Public Officer, Bogotá Planning Department
 (Interviewed by the author, June 2009)

Here, the international legal ethnographer finds a start.

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PREFACE

This book is a response to my dissatisfaction with the way in which international law and the development project tend to be approached as separate fields of academic and institutional practice – as deterritorialized and exceptional ventures, frictionless discourses that cross our lives only occasionally. Yet although it may not be obvious, the argument I advance in this book is that we, and the spaces surrounding us, are continually being constituted and reconstituted by international law through its marriage – in historical, ideological, economic and institutional terms – to the development project. The might of this encounter, I suggest, permeates our desires, the ends we aspire to and the means we use to attain such ends. The twin siblings of international law and the development project shape our territories, dreams and forms of action relentlessly. In my view, our failure to pay attention to their expansive and joint operation occludes much about how we inhabit the world and about the consequences of these modes of habitation.

As a Latin American holding a Colombian passport (and having only recently acquired an Australian passport), I have been well aware of this fact. Travelling between Bogotá, Boston, Frankfurt, Melbourne and London, amongst many other cities, to conduct fieldwork, attend conferences and speak at workshops during the making of this book, I have been asked many times about my legal status. And every time my status has been questioned in each of these places, I have felt the tug of an international normative order under construction. Even though migration authorities, rental contracts and labour codes have been bedevilled with idiosyncrasies in each place, and even though the peoples of these places have very different stories to tell about themselves and their relation to the land, at the end of the day these particularities have not been great. Beyond these differences, I have always felt a strong alliance between law, ideas of progress, and the sensation that by abiding by the law, some kind of development is ensured; a new step in the *long durée* of global modernity is attained.

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This book presents the results of a decade of research into the close relationship between international law and the development project. It pays particular attention to the question of how international law, when it works in tandem with the norms, discourses and institutions associated with the idea of development, has expanded – sometimes explicitly but often covertly or ‘indirectly’ – into multiple realms of social and material life. My objective, in carrying out this research, was to understand how, as a result of this process of expansion (which started during the period of colonization and has only intensified in recent centuries), international law has come to operate through *and* to be materialized in processes, norms, spaces, bodies and artefacts that are commonly bracketed as ‘domestic’ – that is, national and local. This phenomenon is what I call the ‘everyday’ operation of international law.

I concentrated a large part of my attention during these years on the renewed importance of local jurisdictions within international norms and discussions. In particular, I paid attention to how conversations about the current centrality of the ‘local’ to the success of ‘international’ development have come to crystallize around the discourse of *decentralization*, as this has affected nation-states, particularly in the Third World, since the 1980s.¹

Strongly supported by international institutions such as the United Nations and the World Bank, and keenly embraced by national administrations, local elites and many non-governmental organizations (NGOs), the perceived imperative of decentralization for nation-states struggling with debt, unemployment and economic stagnation has played an enormous role in the reconfiguration of public administration in Africa, Asia,

1 I use in this book the concept *Third World* to refer to nation-states that in other traditions and bodies of literature is known as ‘peripheral’, ‘poor’, ‘developing’, ‘emergent’ or ‘non-industrialized’. And I do this, even though I am aware that the term Third World encapsulates and homogenizes multiple heterogeneous realities and that it is often seen as an outdated category today. I use the term, however, in order to convey the history and power/knowledge dynamics that continue to sustain the classification of certain states as still engaged in their process of development, and the disciplinary and political forces that still accompany such classification. In a similar vein, I also use in this book the concepts of the *Global South* and the *South* as analogous to the Third World, but without assuming that these concepts refer to a strict geographical location. See especially on a similar understanding of the concept of Third World: Akhil Gupta, ‘Blurred Boundaries: The Discourse of Corruption, the Culture of Politics, and the Imagined State’, (1995) 22 *American Ethnologist*, 375; Rahul Rao, *Third World Protest: Between Home and the World* (Oxford University Press, 2010); Sundhya Pahuja, *Decolonizing International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press, 2011).

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Latin America and the Pacific over the past decades. As I describe in detail in the chapters that follow, it is this idea of decentralization that has confirmed cities and municipalities as the central loci of development in the Third World.

As a result of the dynamic I have just described, ‘local’ geographies, administrative bodies and residents, together with the very elements that give shape to our cities (from public infrastructure, to local jurisdictional frontiers, to the lay-out of neighbourhoods) have become both targets and instruments of ‘international’ action. This entering of local variables into the ‘international’ realm has involved countless administrative and legal reforms that have come to affect the shaping of local life drastically. And these reforms have been occurring not only as a result of ‘international’ initiatives (e.g. international declarations and international loans to local municipalities), but also – and, in fact, mainly – through ‘local’ laws, ‘local’ processes, and ‘local’ artefacts of governance and social transformations.

Decentralization is, therefore, an ideal site in which to examine the joint operation of international law and the development project, and its impact throughout the world and at all levels of government today – from international and national institutions now divesting development functions onto local administrations, to municipalities, large and small, and their residents engaged now in the agonizing quest for decentralized development.

But decentralization does more than simply offer an entry point through which to explore current dynamics in international law and development. As the reader will discover, thinking through today’s fascination with decentralization also invites us to look at the history and doctrine of international law with a critical eye. In particular, the phenomenon of decentralization takes us back to foundational questions about how relations between the ‘international’ and the ‘local’ have been conceptualized and managed by international law over the past four centuries: from early colonial and late imperial relations between metropolises and their peripheral settlements; to the emergence of ‘developmental states’ in the Global South as a result of the birth of the international development project after the end of the Second World War; to the crises of Third World nation-states and their experiences of structural adjustment from the 1980s onwards. Decentralization, for all of these reasons, offers a particularly important lens through which to reassess the nature, the evolution, the dynamics of authority, responsibility and political action, and the quotidian, everyday effects of the international legal order.

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My thinking around these ideas over the course of the past decade has been mainly grounded on the large urban transformation that has been underway in Bogotá – Colombia’s capital city – since the late 1980s, and which I closely review in this book from that period until the year 2012. Bogotá’s transformation has been framed by the decentralization of the Colombian nation-state during this period, which has bestowed on the city’s administration a new series of prerogatives and responsibilities for the development of the city and its residents. As the reader will have the opportunity to see, this new configuration of forces now operating in Bogotá has not only ignited a local developmental ‘miracle’ that has received large international attention, but it has also altered the relationship between the ‘official’ city and its ‘illegal’ neighbourhoods in significant ways. And it is exactly on the basis of this changing relationship between the ‘official’ city and its ‘illegal’ neighbourhoods that I have been assessing in recent years the intertwined, expansive and everyday operation of international law and the development project.

To explore these themes and to conceptualize my own understanding of Bogotá’s transformation and its effects on the city’s ‘illegal’ neighbourhoods, I adopted in my research an anthropological perspective and used an ethnographic method. My decision to use this approach had several important implications for the questions, ideas and material that I present in this book, and for the reading of international law and the development project that I offer here. At this point, I would like to stress only three of these implications.

Firstly, my anthropological approach led me to organize my investigation around the premise that the international legal and institutional order is not simply an ideological construction. I challenged myself, in this way, to study how international law also exists and works *in* and *through* the world it creates. From this perspective, international law has *both* an ideological dimension and a constitutive capacity. It forms and reshapes our surrounding realities to such an extent that it actually becomes impossible to conceive of international law as existing and operating except through the very things and bodies that it creates. My anthropological approach allowed me, for these reasons, to trace, ethnographically, not only the norms and the biases of the international legal order (attached as these certainly are to the project of modernity and global capitalism), but its human and material manifestations as well.

Secondly, my anthropological approach also made it possible for me to see the extent of international law’s impact and presence beyond the norms and spaces we usually associate with the ‘international’ domain.

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If one accepts the constitutive dimension of international law, as my anthropological approach encouraged me to do, one is forced to make sense of how it is that domestic norms, processes, things, spaces and subjects (e.g. our contemporary cities, their infrastructure, their residents and their urban laws) have ended up carrying the ethos of the international. In this sense, thinking about international law as an anthropological object, as I invite readers of this book to do, invites us to study international law both through its exceptional and international manifestations, and through its national, local and everyday expressions. This becomes a particularly important point as soon as we recognize and take seriously the interplay between international law and the alluring idea of development, for it is this interplay, I suggest, that causes international norms and aspirations vigorously to navigate and crisscross jurisdictional spaces and all levels of government.

Thirdly, and finally, my anthropological perspective also led to an awareness of how international law has been engaged, again since colonial times, in shifting peoples' surroundings, their perception of themselves and their livelihoods *worldwide*. Approaching international law as an anthropological object invites us, as a result, to pay ethnographic attention to the question of how the international legal order comes to shape material and social landscapes *even* in places that are often understood as existing beyond international law. And this immediately invites us, of course, to pay attention to how international law also comes to be resisted both at the centres *and* at the peripheries of our world system and our cities.

In the introductory chapter, I outline in more detail the substantive and methodological points that I advance in this book and that I have just summarized briefly in the previous paragraphs. For now, I want only to lay stress on an additional point that the reader will already have noticed: that my research into Bogotá's transformation has made me all too aware of the extent to which law's disciplines, the idea of development, and the interaction between the international and the local, all form part of an 'official axis' that cuts across all of our lives. Certainly, this 'official axis' – for a lack of a better term – affects our actions and intimate desires continuously. Yet this is only one of many other planes on which we exist, and I was able to confirm this, again and again, in the course of writing this book. Over the years that it has taken me to complete this research, I have also learnt that there is always the grand terrain of generosity, affection, friendship and kindness that coexists with the official world. Here I have been able to rest every time that I thought this book would be impossible to complete.

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PREFACE

Annie and our sons, Martin and Tomas, offered me a place to be in the world well beyond the logic of the official. Breaking conventions, I must say my first thanks to them. Annie also patiently discussed and corrected many of the other publications that resulted from this project, as well as my doctoral work, and in doing so gave me the opportunity to source the material and put together the ideas that I now present here in a final form.

Anne Orford and Shaun McVeigh were enormously generous to me during my doctoral studies at Melbourne Law School. Their intellectual and professional support was, and continues to be, unstinting. Jennifer Beard and Sundhya Pahuja have been also incredible intellectual mentors and friends over the years. Daniel Bonilla was wonderfully caring with me while I was trying to make sense of my ethnographic material very early on in this project.

The ethnographic account of Bogotá that I offer here would not have been possible without the kind help that I received from local leaders in the city's peripheral neighbourhoods, as well as public officials working within the development-related departments of Bogotá and Colombia's administrations, members of local NGOs, and local and national politicians. As I explain in the first chapter of the book, I have changed the names of leaders and officials in the text in order to preserve their anonymity. For this reason, I can only record here in the abstract how grateful I am to each of them.

I was fortunate to receive the support of and to spend time at a number of excellent institutions over these years, including Melbourne Law School and its Institute for International Law and the Humanities; the Institute for Global Law and Policy at Harvard Law School; the Department of Economic Law at the Universidad Externado de Colombia; the Law School at the Universidad de los Andes; the Max Planck Institute for Comparative Public Law and International Law; and most recently Kent Law School. This project emerged from the supportive intellectual environment that exists in all of these institutions.

I would like to also thank several friends, colleagues, reviewers and mentors. They have all enriched this book in many important ways, which I can hardly begin to explain here. But at the least, by including their names in this preface I can hope to spark memories of what were, for me, times of immense happiness and intellectual companionship during this adventure. In this sense, I want to thank Antony Anghie, Amaya Alvez, Emilio Archila, Dahiana Ariza, Matilda Arvidsson, Olivia Barr, Mario A. Bernal, Constanza Blanco, Lina Buchely, Ari Callejas,

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Matthew Craven, Colin Crawford, Eve Darian-Smith, Julia Dehm, Sara Dehm, Maria Clara Dias, Peter Dirou, Ian Duncanson, Maria Elender, Michael Fakhri, Dario Flórez, Angus Frith, Constanza García, Ann Genovese, Judith Grbich, Laura Griffin, Bec Goodbourn, Vanja Hamzić, David Kennedy, Robert Knox, Vik Kanwar, Vidya Kumar, Maribel Maecha, Susan Marks, Ed Mussawir, Usha Natarajan, Vasuki Nesiah, Maria Alexandra Ortiz, Yoriko Otomo, James Parker, Connal Parsley, Juan Felipe Pinilla, Jothie Rajah, Mauricio Rengifo, Michael Riegner, Anthony Rodriguez, Balakrishnan Rajagopal, Juliet Rogers, Peter Rush, Paula Sanchez, Jimena Sierra, Oishik Sircar, Gustavo Osorio, Juan Carlos Upegui, Mariana Valverde and Juan Manuel Viatela. Rose Parfitt is also part of this list of special friends. Rose not only read and discussed with me the final version of this manuscript but also helped me enormously with editing the ideas that I present here. All final shortcomings in terms of form or language remain mine, of course.

To close, I must thank again my family – this time not just nuclear, but also extended, translocated and reorganized – for being always there.

ABBREVIATIONS

CCC	Colombian Constitutional Court
CEPAL	Comisión Económica para América Latina y el Caribe
ECLAC	United Nations Economic Commission for Latin America and the Caribbean
EU	European Union
IADB	Inter-American Development Bank
IBDR	International Bank for Reconstruction and Development
IMF	International Monetary Fund
LDP	Local Development Plan
MDGs	Millennium Development Goals
NGOs	Non-Governmental Organizations
OECD	Organisation for Economic Co-operation and Development
POT	Plan de Ordenamiento Territorial
UCLG	United Cities and Local Governments
UN	United Nations
UN-Habitat	United Nations Human Settlements Programme
UNCHS	United Nations Commission on Human Settlements
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UPZ	Unidades de Planeamiento Zonal
USAID	United States Agency for International Development

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Figure 0.1 Bogotá’s jurisdiction in relation to the municipal distribution of Colombia and Colombia in relation to the world.
Courtesy of C. Sanchez, Wikimedia Commons