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Decentralization of Development and Nation-Building Today: Reconstructing Colombia from the Margins of Bogotá

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Decentralization of Development and Nation-Building Today: Reconstructing Colombia from the Margins of Bogotá*

Luis Eslava

Abstract

Responding to an international trend that regards the state as an oversized, unsustainable and uneven jurisdiction that cannot effectively intervene in the economy to promote development objectives, nor impose a proper presence over its territory and population, the reform of the Colombian Constitution in 1991 installed local development as one of the primary strategies to recuperate the nation-building project in Colombia. Bogotá has greatly benefited from the introduction of this normative framework: within the spatial limits of its jurisdiction, Bogotá has been able to achieve a remarkable level of community engagement, measured urban growth and financial stability, as well as high *per capita* levels of education, health and public utility provision. However, the successful decentralization of state activity in Bogotá has implied an intensification of the systemic violence that traditionally accompanies nation-building projects. Through practices of classification, demarcation and disciplining of space and subjects, Bogotá has used a cartography of legal and illegal urban spaces in order to circumscribe its developmental target. Reflecting upon the contradictions that arise from the encounter between the weaknesses of Colombia's sovereignty and Bogotá's successful development, this paper examines the relationship between development and sovereign consolidation through the multiplication of levels of governance and the creation of increasingly smaller, more accountable sub-national jurisdictions in Third World states.

KEYWORDS: decentralization, development, nation-building, sovereignty, local development, legal city, illegal city, Colombia, Bogotá

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To choose to decentralize, in most settings, requires a leap of faith rather than the application of science. To devote hundreds of millions of dollars to persuading others to decentralize, given the current state of knowledge, seems odd to say the least.

Daniel Treisman (2007)¹

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

Kofi Annan, ex-UN Secretary General (2005)²

I. INTRODUCTION

In recent decades, the city of Bogotá has experienced a remarkable urban renewal, even as there has been a striking increase in internal migration to the city and a deterioration of living conditions across Colombia due to widespread economic distress and violence. Bogotá's success has been framed by the 1991 Colombian Constitution's commitment to decentralize the state's administration and development.³ Responding to an international trend that perceives the state as an oversized, unsustainable and unevenly developed jurisdiction that inefficiently exercises sovereign presence over its territory and population, the new

¹ D. Treisman, *The Architecture of Government: Rethinking Political Decentralization* (New York: Cambridge University Press, 2007), p. 6.

² United Cities and Local Governments, *Kofi Annan recognises role of local governments in international development* (10 September 2005), available at: <<http://www.cities-localgovernments.org/uclg/index.asp?pag=newsD.asp&L=EN&ID=90>>, accessed 12 December 2008.

³ This paper examines the use of *territorial* decentralization for development purposes in the context of state reform during the 1980s and 1990s in Colombia. The scope of this paper does not allow me to address in detail other forms of decentralization that have accompanied this process, such as the redistribution of functions within the central government and the transfer of state responsibilities to semi-autonomous public authorities, private corporations and non-governmental organizations (NGOs). See on these other forms of decentralization in Colombia since the 1980s, A. Angell, P. Lowden and R. Thorp, *Decentralizing Development: The Political Economy of Institutional Change in Colombia and Chile* (New York: Oxford University Press, 2001); J. H. Díaz (ed.), *Descentralización y Superación de la Pobreza en los Países Andinos* (Bogotá: Panamericana, 2002); K. O'Neill, *Decentralizing the State: Elections, Parties, and Local Power in the Andes* (New York: Cambridge University Press, 2005); D. I. Restrepo, "Las Fracturas del Estado en América Latina", in D. I. Restrepo (ed.), *Historias de Descentralización: Transformación del Régimen Político y Cambio en el Modelo de Desarrollo – América Latina, Europa y EUA* (Bogotá: Universidad Nacional de Colombia, 2006), pp. 13-40. See on a critical view about the relation between decentralization and the development success of Bogotá, A. Gilbert and M. T. Garcés, *Bogotá: Progreso, Gobernabilidad y Pobreza* (Bogotá: Universidad del Rosario, 2008).

constitution devolved administrative and financial autonomy to sub-national territorial units.⁴ Planning and implementing development within municipalities has become one of the primary strategies to recuperate the nation-building project in Colombia.⁵ Using Colombia's legal framework for decentralized development, Bogotá has been able to achieve a remarkable level of community engagement, measured urban growth, financial stability and the highest levels of education, health and public utilities coverage in the nation. Indeed, Bogotá has become an international example of how development can be fostered in an increasingly urbanized world.⁶

⁴ See especially, Colombian Constitution 1991, Tittle I, *De los Principios Fundamentales*, and Tittle XI, *De los Habitantes y del Territorio*. The first article of the Constitution affirms that Colombia is a Social Rule of Law State, organized as a united Republic, decentralized, constituted by autonomous local territories, democratic, plural, and based on popular participation. See especially on development and decentralization, arts. 1, 7, 223, 287, 311, 320-330. See generally on development, arts. 65, 70, 71, 80, 150, 151, 189, 200, 298, 300-306, 311, 313, 315, 317-319, 320, 322, 325, 330, 333, 334, 339-344, 346, 352, 355, 361. See especially on the meaning and limitations of "territorial autonomy" in the 1991 Colombian Constitution, A. Trujillo Muñoz, *Democracia y Territorio: El Ordenamiento Territorial entre Derecho y Política* (Bogotá: Siglo del Hombre Editores, 2007).

⁵ In this paper the concept of nation-building conveys the political as well as the cultural processes that seek to maintain the state's ability to function. Nation-building is understood as a process that is common to all states and a process that is never finished. I am not placing my discussion in the narrower definition of nation-building as an activity undertaken by external actors (foreign states, international organizations or development aid agencies) attempting to build, or re-build, the institutions of a state, usually following some form of intervention – such as an UN peacekeeping operation. This understanding of nation-building has been commonly identified as state-building. See on the use of nation-building as state-building, J. Dobbins et al., *The Beginner's Guide to Nation-Building* (RAND Corporation, 2007), available at: <http://www.rand.org/pubs/monographs/2007/RAND_MG557.pdf>, accessed 26 January 2009. See on the use of development in state-building, A. Whaites, *States in Development: Understanding State-Building* (Working Paper, Department for International Development (DFID), UK, 2008), available at: <<http://www.dfid.gov.uk/pubs/files/Expert-feedback.pdf>>, accessed 26 January 2008. See on state-building as opposed to nation-building, S. Chesterman, *You, The People: The United Nations, Transitional Administration, and State-Building* (Oxford: Oxford University Press, 2004), pp. 4-5. See especially on the uses and differences between nation-building and state-building in the context of Third World states, M. Berger, *From Nation-Building to State-Building: The Geopolitics of Development, the Nation-State System and the Changing Global Order*, 27 *Third World Quarterly* 1 (2006), 5-25.

⁶ Bogotá's development success has been recognized in different contexts. As an example of good development practice in an increasingly urbanized Third World, Bogotá's attention to building and rehabilitating public spaces for development purposes was highlighted in the United Nations Population Fund (UNFPA) report, *State of World Population: Unleashing the Potential of Urban Growth* (2007). Bogotá was awarded the *Golden Lion Award* at the 10th *Biennale di Venezia*, 2006, in the category of Cities, Architecture and Society. Bogotá was also awarded the *Cities with Heart 2004* prize by United Nations Volunteers (UNV), UN-Habitat and the Inter-American Development Bank's Initiative on Social Capital, Ethics and Development. The city received the *Cities with a Heart* award for its programme *Bogotá without Hunger*, part of the larger Local

In this context, Bogotá appears to confirm the emergence of a new post-national development paradigm.⁷ According to this view, development in its multiple guises becomes possible when the sovereign weakness of Third World states – the inefficiency of the national economy and state bureaucracy, excessive national interference in the market, and the disempowerment of citizens – is addressed at the local level.⁸ The locality, constituted by both the local government and local citizenry, is identified as the adequate space to deal with market and government failures that have been inherited from decades of state-driven development. Economic, institutional, political, legal, environmental, human and cultural development are all presented as feasible objectives within a local milieu.

Anwar Shah and Sana Shah identify, for instance, the possibility of fostering good governance practices at the local level, which can build ‘vibrant, living,

Development Plan *Bogotá without Indifference* (2004-2008). The *Cities with a Heart* award nomination statement noted that the city’s programme *Bogotá without Indifference* ‘acknowledges the responsibility of local government to meet basic needs while also encouraging a sense of solidarity and social inclusion among all sectors of the population’ and its ‘outstanding achievements in engaging residents through voluntary action in urban development projects, especially in meeting the Millennium Development Goals (MDGs)’. Bogotá has also received special recognition for public governance practices as *Experiencia Ejemplar de Gobernabilidad* (2000) by the United Nations Development Programme and at the World Bank Urban Forum 2005. In relation to sustainable transport solutions, the mayor of Bogotá, Enrique Peñalosa (1998-2001), received *Stockholm Partnerships for Sustainable Cities* and *The Stockholm Challenge Award* in 2000 in recognition of the success of Bogotá’s car-free day. In relation to education and culture, the Gates Foundation awarded Bogotá with the *Access to Learning* prize in 2002. The city was named as the *Iberoamerican Capital of Culture 2007* at the XXI Asamblea de la Unión de Ciudades Capitales de Iberoamérica; and the *Book World Capital 2007* by UNESCO. In terms of security, UNESCO also awarded Bogotá with the *City of Peace 2002-2003*. Finally, due to its success in terms of human development, Bogotá was chosen for the first city-wide Human Development Report: United Nations Development Programme, *Informe de Desarrollo Humano para Bogotá* (2008), available at: <<http://www.idhbogota.pnud.org.co/>>, accessed 14 October 2009.

⁷ The concept of “post-national” encapsulates in the paper the body of scholarship and practitioners’ manuals that describe decentralization and local development as the cornerstones of a new way of thinking about development beyond the figure of the nation-state. See for instance on literature that identifies the local level as the most adequate space to foster development today, T. Campbell and H. Fuhr (eds.), *Leadership and Innovation in Subnational Government: Cases Studies from Latin America* (Washington D.C.: World Bank, 2004); J. Beall and S. Fox, *Cities and Development* (New York: Routledge, 2009).

⁸ I use the concept Third World in this paper, even though I am aware that the term encapsulates and homogenizes heterogenous realities. My use of the term, however, conveys power/knowledge dynamics that sustain the developmental classification of certain states as part of the Third World. See especially, A. Gupta, *Blurred Boundaries: The Discourse of Corruption, the Culture of Politics, and the Imagined State*, 22 *American Ethnologist* 2 (1995), 375-402.

working, and environmentally preserved self-governing communities.’⁹ Locally, it is not only possible to ensure the effective provision of essential services; good local governance is also, according to these authors, ‘about preserving the life and liberty of residents, creating space for democratic participation and civic dialogue, supporting market-led and environmentally sustainable local development, and facilitating outcomes that enrich the quality of life of residents.’¹⁰ Supporting the local jurisdiction as the most adequate spatial and political platform for development, the *Habitat Agenda* (1996), likewise, declared that social, economic and environmental development can be achieved ‘through the effective decentralization of responsibilities, policy management, decision-making authority, and sufficient resources, including revenue collection authority, to local authorities, closest to and most representative of their constituencies.’¹¹ For the *Habitat Agenda*, which is representative of a body of international soft law promoting the decentralization of development, sustainable development is achieved by recognizing the locality as the site of an intricate civilizing dance between government, territory and population; and, further, by devolving authority for the planning, administration and financing of development from the state to the local level. In these descriptions, however, the reconfiguration of the state through the localities – as opposed to its dissolution – is elided. Moreover, the intensification of violence that sustains nation-building projects, and the material practices of classification, demarcation and disciplining that ensure sovereign presence, in this case through the process of decentralization, are overlooked.¹²

⁹ A. Shah and S. Shah, “The New Vision of Local Governance and the Evolving Roles of Local Governments”, in A. Shah (ed.), *Local Governance in Developing Countries* (Washington D.C.: World Bank, 2006), p. 2.

¹⁰ *Ibid.*

¹¹ UN-Habitat, *Habitat Agenda* (1996), para. 177. The Habitat Agenda is the main political document that was formulated at the United Nations Conference on Human Settlements (Habitat II) in Istanbul, Turkey (3 to 14 June 1996) (A/CONF.165/14, 1996). However, the first UN document promoting the decentralization of state functions and development responsibilities is the *Stockholm Declaration*, United Nations Conference on the Human Environment (A/CONF.48/14/Rev.1, 1972). See also, *Vancouver Declaration on Human Settlements*, United Nations Conference on Human Settlements (Habitat I) (A/CONF.70/15, 1976); *Rio Declaration on Environment and Development* (Agenda 21), United Nations Conference on Environment and Development (A/CONF.151/26 (Vol. I), 1992), Chapter 7: Promoting Sustainable Human Settlement Development, Chapter 28: Local Authorities' Initiatives in Support of Agenda 21 (Local Agenda 21); *Declaration on Cities and Other Human Settlements in the New Millennium*, General Assembly Resolution (A/RES/S-25/2, 2001); General Assembly Resolution (A/56/206, 2001); *Johannesburg Declaration on Sustainable Development*, United Nations, World Summit on Sustainable Development (A/CONF.199/20, 2002); UN-Habitat, *Guidelines on Decentralization and the Strengthening of Local Authorities* (2007).

¹² See on efforts to remedy the lack of attention to the transformation of the state through the local level, G. Mohan, *Adjustment and decentralization in Ghana: A Case of Diminished Sovereignty*,

The aim of this paper is to demonstrate that local development interventions in Colombia, and in many other parts of the South where the decentralization of development has lately occurred, cannot be understood from a post-national framework.¹³ Instead the paper argues for a critical understanding of local development as a transplant of the nation-state's anxieties about territorial and population control into local geographies.¹⁴

15 Political Geography 1 (1996), 75-94; S. A. Radcliffe, "Imagining the State as a Space: Territoriality and the Formation of the State in Ecuador", in T. B. Hansen and F. Stepputat (eds.), *States of Imagination: Ethnographic Explorations of the Postcolonial State* (Durham, NC: Duke University Press, 2001), pp. 123-148; J. Ferguson and A. Gupta, *Spatializing States: Toward an Ethnography of Neoliberal Governmentality*, 29 *American Ethnologist* 4 (2002), 981-1002.

¹³ For instance, in Latin America alone Argentina, Bolivia, Brazil, Chile, Paraguay, Peru, Venezuela and many Central American nations have devolved development responsibilities to sub-national jurisdictions in the last 20-30 years. The same trend has been occurring in South East Asia, Asia and Africa. See on the case of decentralization in Latin America, J. Manor, *The Political Economy of Democratic Decentralization* (Washington D.C.: World Bank, 1999); E. Willis, C. Garman and S. Haggard, *The Politics of Decentralization in Latin America*, 34 *Latin America Research Review* 1 (1999), 7-56; K. Eaton, *Politics Beyond the Capital: The Design of Subnational Institutions in South America* (Stanford, Calif.: Stanford University Press, 2004); M. S. Grindle, *Going Local: Decentralization, Democratization, and the Promise of Good Governance* (Princeton, N.J.: Princeton University Press, 2007); Angell, Lowden and Thorp (2001), *supra* note 3; Díaz (2002), *supra* note 3; O'Neill (2005), *supra* note 3; Restrepo (2006), *supra* note 3. See generally on the promotion of decentralization across the Third World, S. Yusuf, W. Wu and S. Evenett (eds.), *Local Dynamics in an Era of Globalization: 21st Century Catalysis for Development* (Oxford: Oxford University Press, 2000); P. Bardhan and D. Mookherjee (eds.), *Decentralization and Local Governance in Developing Countries* (Cambridge, Mass.: MIT Press, 2006); G. S. Cheema and D. A. Rondinelly, "From Government Decentralization to Decentralized Governance" in G. S. Cheema and D. A. Rondinelly (eds.), *Decentralizing Governance: Emerging Concepts and Practices* (Washington, D.C.: Brookings Institution Press, 2007), pp. 1-20; F. Mirafab, C. Silver and V. A. Beard (eds.), *Planning and Decentralization: Contested Spaces for Public Action in the Global South* (New York: Routledge, 2008); United Cities and Local Governments and The World Bank, *Decentralization and Local Democracy in the World – First Global Report* (2008), available at:

<http://www.cities-localgovernments.org/gold/gold_report.asp>, accessed 12 December 2009; Center for International Earth Science Information Network (CIESIN), *The Online Sourcebook on Decentralization and Local Development* (Swiss Agency for Development, FAO, UNDP, World Bank and German Agency of Technical Cooperation), available at: <www.ciesin.org/decentralization>, accessed 28 November 2008; Shah and Shah (2006), *supra* note 9; Treisman (2007), *supra* note 1, pp. 1-6.

¹⁴ Even though there is a significant body of scholarship and technical literature promoting and examining decentralization, there are almost no systematic critiques of the model. Engagement with the subject is normally done in order to improve the decentralization process. In particular, decentralization rhetoric and practices have mostly passed unexamined within critical development studies and the author is not aware of other critical analyses of decentralization, or development use of space to achieve its objectives, within legal studies or the Law and Development field. See as exceptions in the Latin American context, C. A. de Mattos, *La Descentralización, una Nueva Panacea para Impulsar el Desarrollo Local?*, 25 *Estudios Regionales* (1990), 49-70; Restrepo

The decentralization process does not mark the end of the state, nor its national form. Central governments, and the international agencies of which they are constitutive members, have themselves dismantled state functions and transferred them to a local elite and an increasingly private and transnational sector.¹⁵ This has been executed partly with the aim of recovering the state's presence across territory and population, but also as a response to an economic context that is increasingly critical of the state's capacity to intervene directly in the market and to new modes of capital accumulation that are no longer compatible with the mechanics of the nation-state. This new economy operates on the basis of market and financial flexibility, which pays close attention to sub-national geo-strategic advantages and the importance of local markets. In this context, state power and sovereign presence are translated to the local level not only by delegating central state functions to local governments but also by welcoming the market, its actors and logics, within the smaller, less populous, and allegedly more versatile, local landscapes. The renewed importance of the local level in Third World states attends thus to a new political and economic environment that configures the locality and its population as an updated scenario to manage previously national aspirations, conflicts and interests.¹⁶ This style of government implies that the pendulum swings between central governments occasionally reclaiming authority over local affairs or assigning new functions and obligations to local administrations and local governments devolving some responsibilities to the central-state level or calling for greater financial or political independence. These interactions between these two clusters of authority are not so much representative of a conflict between old and new, but are instead part of

(2006), *supra* note 3. See on a most open critique of decentralization in the Colombian context, IUÉD and Paracomún, *El Futuro de la Descentralización: Experiencias de Quince Años y Perspectivas – IV Encuentro Colombia Hacia la Paz* (Geneva, 7-9 February 2003), pp. 323-334. See on a critical analysis of decentralization familiar to the arguments advanced in this paper, D. Craig and D. Porter, *Development Beyond Neoliberalism? Governance, Poverty Reduction and Political Economy* (Abingdon, Oxon: Routledge, 2006); T. M. Li, "The Law of the Project: Government and 'Good Governance' at the World Bank in Indonesia" in F. Benda-Beckmann, K. Benda-Beckmann and J. Eckert (eds.), *Rules of Law and Laws of Ruling: On the Governance of Law* (Farham: Ashgate, 2009), pp. 237-256; Mohan (1996), *supra* note 12.

¹⁵ In the case of Colombia, an example of some of the new private actors, academics and public elite and para-state actors that have appeared since the entrance of the decentralization framework can be reviewed in the following publications where they present their own views of the process: Red de Iniciativas para la Gobernabilidad, la Democracia y el Desarrollo Territorial (RINDE), *Memorias del Seminario, 20 Años de la Descentralización en Colombia: Presente y Futuro* (Bogotá, 20-21 September 2006); IUÉD and Paracomún (2003), *supra* note 14.

¹⁶ See for example, G. Hyden, "Challenges to Decentralized Governance in Weak States" in G. S. Cheema and D. A. Rondinelly (eds.), *Decentralizing Governance: Emerging Concepts and Practices* (Washington, D.C.: Brookings Institution Press, 2007), pp. 212-228.

the larger process to accommodate the figure of the nation-state within new historical conditions.¹⁷

The underlying assumption of this paper is that development has always been deployed as part of nation-building efforts. However, while development continues to be formulated within the apparatus of the nation-state and to rely on the nation-state's claim of absolute sovereignty over its body-politic, development has also led to the creation and management of alternative jurisdictional arrangements in order to achieve its objectives.¹⁸ Development practice, norms and policies permit both the idea and the actual legalization of jurisdictions that do not necessarily follow the national territory format, a nation-wide citizenship, or nation-wide sovereign control. In the case of decentralization, the purpose of jurisdictional formation is to create instances, however limited, of firm – yet flexible in relation to market forces – sovereign control, places where development success can be attributed to the alignment of local, national and global aspirations.¹⁹ Decentralization of development not only duplicates jurisdictions: it also multiplies the levels of governance that scrutinize and manage the pursuit of development goals. Nation-building and development are thus intimately connected, even though we see now an articulation between these two projects through the local jurisdiction.

¹⁷ See for example on re-centralizing tendencies in Colombia, D. I. Restrepo, "Economía Política de las Estructuras Espaciales del Estado en Colombia", in D. I. Restrepo. (ed.), *Historias de Descentralización: Transformación del Régimen Político y Cambio en el Modelo de Desarrollo – América Latina, Europa y EUA* (Bogotá: Universidad Nacional de Colombia, 2006), pp. 377-385.

¹⁸ See for example, B. Jessop, "Post-Fordism and the State", in A. Amin (ed.), *Post-Fordism: A Reader* (Cambridge, Mass.: Blackwell 1994), pp. 251-279; *Id.*, "A Neo-Gramscian Approach to the Regulation of Urban Regimes: Accumulation Strategies, Hegemonic Projects and Governance", in M. Lauria (ed.), *Reconstructing Urban Regime Theory: Regulating Urban Politics in a Global Economy* (Thousand Oaks, Ca.: Sage 1997), pp. 51-73; *Id.*, *Capitalism and its Futures: Remarks on Regulation, Government and Governance*, 4 *Review of International Political Economy* 3 (1997), 561-581; G. MacLeod and M. Goodwin, *Reconstructing an Urban and Regional Political Economy: On the State, Politics, Scale and Explanation*, 18 *Political Geography* (1999), 697-730; *Id.*, *Space, Scale and State Strategy: Towards a Re-Interpretation of the New Urban and Regional Governance*, 23 *Progress in Human Geography* (1999), 503-527; E. Swyngedouw, "Neither Global nor Local: 'Glocalisation' and the Politics of Scale", in K. Cox (ed.), *Spaces of Globalization: Reasserting the Power of the Local* (New York: Guilford Press, 1997), 137-166; A. Ong, *Graduated Sovereignty in South-East Asia*, 17 *Theory, Culture & Society* 4 (2000), 55-75; L. Hooge and G. Marks, *Unraveling the Central State, but How? Types of Multi-level Governance*, 97 *American Political Science Review* 2 (2003), 233-243.

¹⁹ See especially on the recent attention to measure decentralization as a governance indicator 'because it enables central governments to monitor the [development] performance of provincial and local governments', The World Bank, *World Development Indicators* (Washington D.C.: World Bank, 2008), p. 266, available at: <<http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:21725423~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html>>, accessed 26 January 2009.

While co-ordinated, multi-level jurisdictional arrangements and decentralized systems of governance are not uncommon in political history, my argument in this paper is that reading decentralization and local development as natural stages within a generic history of territorial administration obscures their role within a particular modern narrative that ascribes the failure of Third World states to achieve development to their lack of effective sovereign control over territory and population.²⁰ According to this narrative, states remain underdeveloped, and their sovereignty weak, for as long as they lack a consistent and even sovereign presence across both space and subjects. As Craig and Porter have argued, decentralization of development does not necessarily reduce the state and its sovereignty. Instead, decentralization allows a coordinated re-territorialisation of the state power through the entrance of international development and its concomitant disciplines into Third World sub-national jurisdictions.²¹

Here, recovering sovereign control and renewing the nation-building project occurs via the reconstruction of the locality as the embodiment of the state *vis-à-*

²⁰ For instance, the connection between sovereign control and development has been taken to the forefront of international policy analysis in the *Failed State Index*. Published annually by the Fund for Peace and the magazine Foreign Policy, the *Index* benchmarks a country's statehood(ness) in relation to a broad array of development concerns. The *Index*, has given alarming signals of state failure across the Third World, ranking, for instance, Colombia in 2005 as an "Alert" state as opposed to a "Sustainable" state – which seems to be a category exclusively reserved for developed countries. Similarly, the London School of Economics and Political Science's Crisis States Research Centre (CRSC) has defined a "failed state" as a 'state that can no longer perform its basic security and development functions and that has no effective control over its territory and borders.' Eloquently for the CRSC a failed state 'is one that can no longer reproduce the conditions for its own existence.' Crisis States Research Centre, *Crisis, Fragile and Failed States: Definitions Used by the CSRC* (2006), available at: <www.crisisstates.com/download/drc/FailedState.pdf>, accessed 1 February 2009. See on the role of development in the determination of 'state failure' under International Law, D. Thürer, *The "Failed State" and International Law*, 836 *International Review of the Red Cross* (1999), 731-761. See for a critical review of the concatenation of state 'failure' and development, A. Orford, *The Uses of Sovereignty in the New Imperial Order*, 6 *The Australian Feminist Law Journal* (1996), 63-86; A. Nandy, "State" in W. Sachs, *The Development Dictionary: A Guide to Knowledge as Power* (New Jersey: Zed, 1997), pp. 264-274; G. Rist, *The History of Development: From Western Origins to Global Faith* (New York: Zed, 2004), pp. 74-79; J. L. Beard, *The Political Economy of Desire: Law, International Law, Development, and the Nation State* (New York: Routledge-Cavendish, 2007), pp. 154-181; M. Lewis, C. Sampford and R. Thakur, "Introduction", in T. Jacobsen, C. Sampford and R. Thakur (ed.), *Re-envisioning Sovereignty: The End of Wesphalia?* (Burlington, VT: Ashgate, 2008), p. 5. See for a description in which state failure, sovereign weakness and underdevelopment are equated, S. D. Kaplan, *Fixing Fragile States: A New Paradigm for Development* (Westport, Conn.: Praeger Security International, 2008); R. H. Jackson and C. G. Rosberg, *Sovereignty and Underdevelopment: Juridical Statehood in the African Crisis*, 24 *The Journal of Modern African Studies* 1 (1986), 1-31.

²¹ Craig and Porter (2006), *supra* note 14, pp. 1-42.

vis an international order based on a growing set of prescriptions that are bundled together under the concept of development: for instance, friendly market policies, fiscal responsibility, environmental sustainability, good local governance practices, the promotion of human rights and the rule of law, the respect for property rights and the honouring of contracts, the maintenance of safe conditions for foreign investors and human security for residents. These prescriptions are crystallized in the local reality through a series of normative artefacts, such as supra-national decentralization guidelines as the World Bank's *Cities in Transition: Urban and Local Government Strategy*,²² and in certain contexts, through National and Local Plans of Development and Local Plans of Territorial Order, as is the case in Colombia. These prescriptions are also integrated into local practices and official language, as is evident in the following statement by Enrique Peñalosa, ex-mayor of Bogotá (1998-2001):

An idea and a vision became the axis of both Government Programmes and [my major's term] Local Development Plan... Both were completed... obsessively following the rule of law and without improvisation or indecision. In order to achieve a radically new experience in Bogotá, we maintained a strong political will that favoured the public interest instead of particular dispensations. We walked away from showy populism and, in preference to this, we spoke to our citizens with the only valid criteria that a responsible government might uphold: the truth.²³

My use of development in this paper is therefore deliberately broad. In doing so, I follow the generous use of the term within the decentralization framework, where it not only refers to different types of technical activities but is also deployed with descriptive, normative and aspirational meanings. My use of sovereignty is also broader than its traditional normative meaning.²⁴ Confronted with development as a standard of statehood(ness), exercising effective sovereignty at the international level today requires more than an abstract claim of state authority over a territory and a population: an effective sovereign presence is

²² C. Kessides, *Cities in Transition: World Bank Urban and Local Government Strategy* (Washington D.C.: World Bank, 2000).

²³ E. Peñalosa Londoño, "La Bogotá del Tercer Milenio" in Alcaldía Mayor de Bogotá D.C., *Bogotá a Escala Humana: La Bogotá del Tercer Milenio, Historia de Una Revolución Urbana* (Bogotá: Alcaldía Mayor de Bogotá D.C., 2000), p. 8.

²⁴ See especially, M. Foucault, *Society Must Be Defended: Lectures at the College de France, 1975-1976* (New York: Picador, 2003); *Id.*, "'Omnes Et Singulatim': Toward a Critique of Political Reason", in J. D. Faubion (ed.), *Power: Essential Works of Foucault 1954-1984 v. 3* (London: Penguin, 2002), pp. 298-325; *Id.*, "Governmentality", in G. Burchell, C. Gordon and P. Miller (eds.), *The Foucault Effect: Studies in Governmentality* (Chicago: University of Chicago Press, 1991), 87-104.

also required. Sovereignty is not simply a *right* belonging to a head of state, it is also an acute *practice* that needs to be performed at the spatial and subjective level if development is to be achieved. As such, sovereignty is a prerogative obtained once territory and population have been strategically coupled in governmental decisions. That the weakness of Third World states should be resolved through an effective sovereign presence at the local level resonates with Foucault's assessment: 'a good sovereign ... is someone well placed within a territory.'²⁵

Applying this discussion to the Colombian context, and in response to the weakness of Colombia's sovereignty and the nation's failure to achieve development, the 1991 constitutional reform delegated administrative and financial autonomy to sub-national territorial units. The reforms sought to rebuild Colombia's sovereign power over its territory and population by constructing a jurisdictional quilt. The patches of the quilt – the municipalities – were identified as the most effective transmitter of development, premised on the spatial proximity of local governments to their inhabitants and the capacity of localities to democratize the exercise of public administration, to provide services more efficiently and to compete more strategically in global markets. The reforms anticipated that development could be achieved locally, and that the Colombian state would be, as a result, newly legitimated. The Colombian territory and its population were administratively fragmented into municipalities in order to achieve effective development and a re-colonisation by sovereign power.²⁶ Bogotá benefited enormously from this normative framework because it allowed the local administration to increase representation over its population and control over its territory while effectively targeting the subjects of its development initiatives. Nonetheless, the city's success has been exclusive. In order to manage the city's burgeoning informal fringes, which have traditionally been the areas that receive Colombians displaced by the country's ongoing internal conflict, Bogotá has used a cartography of legal and illegal spaces to define its territory and population.²⁷

²⁵ M. Foucault, *Spaces of Security: The Example of the Town. Lecture of 11th January 1978*, 26 *Political Geography* (2007), 51.

²⁶ See similar arguments about the re-territorialisation of the state in Colombia, B. Ng'weno, *Turf Wars: Territory and Citizenship in the Contemporary State* (Stanford, Calif.: Stanford University Press, 2007).

²⁷ Issues of urban illegality in Bogotá have a long history. However, illegal settlements increased dramatically during the second half of the twenty century. With this expansion, the city's administration started to establish processes of control and partial legalization of these settlements. However, it was only since the beginning of the 1990s (the period that that this paper pays attention to) that the city assumed an active approach to the control of illegal settlements and made neighbourhood legalization processes a key part of the city's development strategies. According to informal conversations between the author and employees of Bogotá Water Company, Bogotá's illegal neighbourhoods receive an estimate of 100- to 150,000 new residents each year. The World Bank estimates fewer arrivals per year. According to supporting documents of a recent transaction

The city of Bogotá ensures a space where development can occur – the Legal City – by demarcating, excluding, and eventually including, in a cautious manner, its illegal neighbourhoods, some of which lie within the city’s official jurisdictional boundaries but outside its urban official perimeter, and some of which officially belong to neighboring municipalities and their illegal areas. All of these illegal settlements are referred in official and popular discourses under the umbrella concept of Bogotá’s Illegal City.

The spatial and normative position of illegal neighbourhoods in relation to Bogotá are examined in detail in sections II.D and III. At this stage, however, I provide three contextual points for the reader.

Firstly, the condition of illegality in practice entails a scarce provision of public services and urban infrastructure, and a material denial of the residents’ rights (the right to access adequate education and health services, for instance). While these fundamental rights are not formally withheld by Bogotá’s administration – and Colombia’s constitutional human rights action (*acción de tutela*) offers the possibility for redress if arbitrary treatment can be demonstrated²⁸ – the citizens of illegal neighbourhoods are in fact doubly

between the World Bank and Bogotá’s Mayoral Office, the number of new arrivals to informal areas in Bogotá since 1999 has been 266,000, and the arrivals in 2005 were only 40,000 people. The World Bank, Project Name: CO Bogotá Urban Services, Project Information Document (PID) Appraisal Stage, Report No.: AB3107, (2 May 2007), available at: <http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2007/05/17/000013944_20070518151947/Rendered/PDF/PID010Appraisal0Stage.pdf>, accessed 11 July 2007. According to Mike Davis, the Colombian conflict has added in recent years more than 400,000 internal displaced population to Bogotá’s urban poverty belt. M. Davis, *Planet of Slums* (London: Verso, 2006), p. 49. See especially on the rise and social dynamics of Bogotá’s informal/illegal growth, E. S. Popko, *Transitions: A Photographic Documentary of Squatter Settlements* (Stroudsburg, Pa.: Dowden, Hutchinson & Ross, 1978); Equipo de Servicios Públicos Cinep – IDE, *Barrio a Barrio se Construye una Ciudad (Documentos Ocasionales No. 70, Centro de Investigación y Educación Popular – CINEP, Bogotá, 1993)*; ; P. Simpson, *Divided Cities/Invisible Walls: Double Standards of Urban Life, Who has the Better Deal?* (Working Paper N. 159, International Association for the Study of Traditional Environments, Berkeley University, 2002); N. Rueda García and D. Rueda Sinisterra, *Desarrollo Urbano y Pobreza en Bogotá D.C.* (Bogotá: Universidad de los Andes, 2005); Secretaría Distrital del Hábitat, *Informe Técnico de Soporte de la Política Integral de Hábitat, 2007-2017* (Bogotá: Alcaldía Mayor de Bogotá, 2008). See for legal recounts of the informal growth of Bogotá, O. Muñoz Neira, *Urbanizadores Piratas* (Bogotá: Ediciones Doctrina y Ley Ltda., 2004); D. Bonilla, *Pluralismo Jurídico y Propiedad Extralegal: Clase, Cultura y Derecho en Bogotá*, 36 *Revista de Derecho Privado* (2006), 20-50; A. Niño Ruiz, *Formal and Informal Housing Practices in Bogotá, Colombia: The experience of Metrovienda and Juan XXIII*, 36 *Revista de Derecho Privado* (2006), 183-206; L. Rico Gutiérrez de Piñeres, *Ciudad Informal: La Historia de un Barrio Ilegal* (Bogotá: Universidad de los Andes, 2009).

²⁸ See for instance in the case of access to water, Colombian Constitutional Court, *Tutela 406* (1992), Mag. Ciro Angarita Barón. This case expressly linked access to drinkable water and sewage system with the right to life and human dignity. See also, Colombian Constitutional Court, *Tutela 570* (1992), Mag. Jaime Sanín Greiffenstein; Colombian Constitutional Court, *Tutela 578*

disenfranchised: on the one hand, by their position beyond the official boundaries of Bogotá, which even judicial actions can not completely overcome, especially in cases where the illegal neighbourhood is officially part of a neighbouring municipality;²⁹ and, on the other hand, by their location within the economically depressed urban periphery of the city. In addition to their jurisdictional exclusion, citizens of illegal neighbourhoods are socially, economically and spatially segregated from the core of Bogotá's development success.³⁰

Secondly, the residents of illegal neighbourhoods are not, as a consequence of their normative and socio-spatial segregation, foreign to the city's life and market. They are instead a vital part of Bogotá: they provide labour to the city's employers, they substantially increase the number of consumers for the city's goods and services, and they actively use their neighbourhoods as a place in the city to pursue their projects and ambitions. They are also politically active within their communities, as well as in the context of the city, the Colombian nation and at the international level – which is often present in the life of their neighbourhoods through the actions of NGOs and international organizations (especially, in the form of programmes and projects sponsored by the UNDP, UN-Habitat, UNHCR, and the World Bank). In all of these actions, the agency of illegal residents, and their resilience in front of the difficult conditions that shape the life of their neighbourhoods, is notorious. In the particular context of this paper, I approach the operation of such agency through the fact that the illegal residents of Bogotá remain, at the end of the day, structurally segregated by their normative and spatial location and the fact that their citizenship to the city is pending. Although it could be argued that residents of illegal neighbourhoods exert their agency when they act as “free riders” on the city's services, e.g. by illegally connecting to the city's water system, I would say that in doing so they confirm their liminal position as official outsiders of Bogotá and the new model of a decentralized state. As a resident and community leader of an illegal

(1992), Mag. Alejandro Martínez Caballero; Colombian Constitutional Court, *Tutela* 244 (1994), Mag. Hernando Herrera Vergara; Colombian Constitutional Court, *Tutela* 092 (1995), Mag. Hernando Herrera Vergara. This jurisprudence has been confirmed and renewed by Colombian Constitutional Court, *Tutela* 1104 (2005), Mag. Jaime Araújo Rentería.

²⁹ See especially on the case of *Altos de Cazucá*, a group of illegal neighbourhoods located on Soacha, Bogotá's impoverished neighbouring municipality, Tribunal Administrativo de Cundinamarca, Sección Segunda, Subsección B, *Alcalde Municipal de Soacha (Jesús Ochoa Sánchez) v José Joaquín García García, Flor Alba Tole Nieto and Jeremías Beltrán Cortés* (Incidente de Desacato, No. 1592, 22 May 2007). The neighbourhoods that form *Altos de Cazucá* are located on the actual encounter between the jurisdiction of Bogotá and Soacha. See also on the constitutional discussion about the extent and limitations of public investment in illegal neighbourhoods in Colombia: Colombian Constitutional Court, *Sentencia de Constitucionalidad* 1108 (2008), Mag. Manuel José Cepeda Espinosa.

³⁰ See especially, Secretaría Distrital del Hábitat (2008), *supra* note 27, pp. 51-62.

neighbourhood on the peripheries of Bogotá made clear during an interview with me:

We [illegal residents of the city] move to these neighbourhoods for different reasons: hunger, unemployment, from violence, bad treatments ... many things. So, people start looking for the most favourable place in the system of basic economy in which we live ... In this way, the person that decides to live in one of these marginalized, sub-normal, neighbourhoods, arrives here to suffer necessities [lack of a proper water system, lack of infrastructure or schools, insecurity, etc], that they did not “always” have to put up with. Sometimes they suffer them unnecessarily. But due to the pressures of life or the abandonment of the state, people choose to come to live here and pay with their own blood the conditions and necessities of these neighbourhoods; necessities that are not just our own problem, they are also things of the state (*cosas del estado*) ...³¹

Finally, the hard binary between legal and illegal discussed in this paper is not an explicit disciplinary mechanism in Bogotá’s development discourses and governance strategies, even though these provide meticulous mechanisms for the management and disciplining of the city’s space and subjects. The Illegal City is only exposed when it impinges on the development of the Legal City, although its existence is often implicit in official discourse. For instance, a report declaring that ‘100% of the Legal City’s population has access to drinking water’ recognizes the Illegal City as a problematic shadow for the development of the Legal City, without explicitly naming it.³² When the Illegal City is directly identified, on the other hand, it is usually because the equilibrium of the Legal City has been threatened by wasteful expenditures in its illegal sibling: for example, when illegal connections to the Legal City’s water pipes place the financial success of Bogotá’s water company at risk or the location of illegal neighbourhoods in zones with a high risk of landslides announces a local calamity to which the city’s administration needs to respond.³³ As a result, the legal/illegal

³¹ Interview realized by the author with a community leader in a peripheral neighbourhood of Bogotá in the municipality of Soacha (11 August 2009).

³² See for example, Casa Editorial El Tiempo, Fundación Corona and Cámara de Comercio de Bogotá, *Bogotá Como Vamos: Informe de Evaluación: Los Primeros Dos Años de la Administración Distrital 2004-2008* (Bogotá: El Tiempo, 2006).

³³ See for example, Empresa de Acueducto de Bogotá (EAAB), *Resolución 0194: Por la Cual Se Establece la Forma de Cobro del Suministro Provisional de Acueducto a Usuarios Irregulares Agrupados* (8 March 2007), available at: <<http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=23375>>, accessed 10 August 2007.

binary implicit in Bogotá's development is political in nature, even though its apparent structure and motion are normative.

It is under these conditions that Bogotá's development statutes and its carefully delineated frontiers have come to operate like city walls of former times.³⁴ The laws that establish Bogotá's jurisdictional boundaries define, distinguish and separate bodies within the urban space, creating a favourable topology for development. By pursuing the sustainability and integrity of its jurisdiction, Bogotá has marshalled an effective sovereign presence and is able to maintain an efficient sovereign spatial economy. I employ the expression 'sovereign spatial economy' in this paper to convey the sense in which Bogotá as a local jurisdiction acts as a spatial configuration of power, an instrument that expands and contracts in response to its capacity to develop individual subjects while still allowing market flows to circulate over its local frontiers. Bogotá rules, in principle, over what it is capable of interiorising: that is, what it is capable of developing. The other, the illegal population that is not – or at least not yet – included and regularized in the official map and statistics of Bogotá, subsists in an unstable terrain of active expectation in relation to the city's official development success.³⁵ In its evaluation of decentralization theory, rhetoric, policies and practices, this paper attempts to take the exclusion, and careful integration, of those beyond the official development map of Bogotá into account. By demonstrating how Bogotá sustains its development success through the practices of classification, demarcation and disciplining of territory and population that have been implemented under the banner of decentralization, the paper aims to

³⁴ Bogotá's administration calculates that 20% of land within its official urban perimeter has an illegal origin. This 20% contains 2 million residents. In this way, it is still possible to find illegal neighbourhoods within the city's urban perimeter/jurisdiction. These neighbourhoods are patches of urban informality, even though most of them are properly consolidated in terms of public utilities and urban infrastructure. Their illegality rests mainly on the lack of urban licenses when they were originally built several decades ago. Even though their illegality also has consequences in terms of land title issues and the impossibility to obtain urban licenses, in this paper I focus my attention on those illegal neighbourhoods that are in the city's jurisdiction but beyond the urban perimeter of the city and the illegal neighbourhoods that are located along the city's jurisdictional frontier yet are part of neighbouring municipalities. These are the most affected in terms of lack of public utilities, infrastructure and effective presence of health and education services. See on the difference between these two kinds of illegal neighbourhoods, Bogotá, *Decreto Distrital 367* (2005), art. 7. See also, "Propiedad de sus predios reciben 1.800 familias de localidades Rafael Uribe Uribe y Usme", *ElTiempo.com*, 12 Julio 2009, available at:

<http://www.eltiempo.com/colombia/bogota/propiedad-de-sus-predios-recibieron-1800-familias-de-localidades-rafael-uribe-uribe-y-usme_5622228-1>, accessed 13 July 2009.

³⁵ See especially, G. Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford, Calif.: Stanford University Press, 1995), p. 18; *Id.*, *State of Exception* (Chicago: University of Chicago Press, 2005).

problematize the decentralization fever that has gripped the Third World in the last decades.

This paper is organized as follows. In the first half, I explore how development in Colombia evolved from being a state-driven to a locally-based enterprise over the past century. This section describes how development was questioned on the basis of the state's inability to control its territory and population in an increasingly globalised economy; how the municipality has emerged through development norms and technologies as the redeemer of the state; and finally, the contradictions that are inherent in this process. In the second half of the paper, I turn my attention to Bogotá. Firstly, I discuss how Bogotá has achieved a remarkable level of urban development using the decentralized framework. Secondly, I examine the escalation of territory and population control in the city. I illustrate this point by reviewing two expressions of Bogotá's hold over its territory and population: the extensive cartographic catalogue that has accompanied Bogotá's development and two recent programmes of neighbourhood legalization. The aim of my analysis in this section is to understand how the reconstruction of the state at the local level in Colombia has furthered state-based memories of classification, demarcation and disciplining of territory and population. In particular, I argue that the consequences of building the state from the local level are neither a coincidence nor a side-effect, instead a decision grounded and calculated on development's call for sovereign presence in Third World states.

II. NATION-BUILDING: FROM THE STATE TO THE LOCALITY

In his inaugural address, US President Truman (1945-1953) described development as an international project opposed to 'the old imperialism'.³⁶ Truman's promise of development envisaged a democratic, fair-dealing programme, in which the wider and more vigorous application of modern scientific and technical knowledge would be the key to economic growth. Increasing productivity was identified as the key to national prosperity and a harmoniser of international relations. The achievements of social democratic and welfare models of capitalism after WWII in the North – particularly the New Deal in the United States and the Marshall Plan in Europe – encouraged the pursuit of Keynesian macroeconomic interventions in the South, which reaffirmed the role of Third World national administrations in the governance of their populations.³⁷

³⁶ H. S. Truman, *Inaugural Address* (January 20, 1949) available at: <http://www.trumanlibrary.org/whistlestop/50yr_archive/inagural20jan1949.htm>, accessed 15 November 2009.

³⁷ R. Peet (with E. Hartwick), *Theories of Development* (New York: Guilford Press, 1999), p. 41.

Formally, at least, developing nations possessed macro-variables in common with the developed world: territory, population and government. These features made states the preferred platforms for development, which was modelled as a cooperative multilateral effort rather than a camouflage for colonialism or explicit interventionist policies (such as the United States' Big Stick Diplomacy over Central and South America during the 19th century).³⁸ Truman's vision of development heralded an international dialogue mediated through International Law and supra-national institutions, where the sovereign rights of individual nation-states to control a national territory, organize a national market in this space, incur in international debts, ratify multilateral economic pacts, and develop their populations were assumed. These normative prescriptions were accompanied by a particular set of technical instructions, formulated initially by Rostow, to lead a developing nation through sequential stages of social, political and economic development.³⁹ The portrayal of development as a state-based enterprise with a clearly defined sequence made the message of development easy to communicate and appealing to national leaders.⁴⁰

The economic rationale behind development was strongly supported by a new international political agenda. Post-colonial nation-states – even Colombia, with almost 150 years of republican history – experienced a new urgency to promote themselves as the repository of cultural values that would resolve the legacy of their colonial pasts, which were plagued with regional grievances and territorial, cultural, racial and economic differences.⁴¹ The opportunity for Third World countries to act as single, fully sovereign nation-states presented a new avenue to ensure progress and equality within the emerging global governance system of the post-war period.⁴² Even the political polarization during the Cold War never went so far as to neglect the role assigned to the figure of the nation-state in the Third World. In both its capitalist and communist guises, development

³⁸ Slogan describing the United States President Theodore Roosevelt's corollary to the Monroe Doctrine. The term 'Big Stick Diplomacy' encapsulates the claim by the United States that it had the right not only to oppose European intervention in the Western Hemisphere, but also to intervene in the domestic affairs of its neighbours if they proved unable to maintain order and national sovereignty. See on the Big Stick Diplomacy, D. W. Dent, *The Legacy of the Monroe Doctrine: A Reference Guide to U.S. Involvement in Latin America and the Caribbean* (Westport, Conn.: Greenwood Press, 1999); S. Brewer, *Borders and Bridges: A History of U.S.-Latin American Relations* (Westport, Conn.: Praeger Security International, 2006).

³⁹ See especially; W. W. Rostow, *The Stages of Economic Growth*, 12 *Economic History Review* 1 (1959), 1-16; W. W. Rostow, *The Economics of Take Off into Sustained Growth* (London: Macmillan 1965).

⁴⁰ Nandy (1997), *supra* note 20, p. 264.

⁴¹ See especially on Colombia, N. P. Appelbaum, *Muddied Waters: Race, and Local History in Colombia, 1846-1948* (Durham: Duke University Press, 2003). See also, Nandy (1997), *supra* note 20, p. 266.

⁴² Rist (2004), *supra* note 20, p. 74.

remained closely linked to the figure of the state, sovereignty and self-determination, even if it was ‘in exchange for a right to self-definition.’⁴³ As Antony Anghie has described, the Eurocentric Westphalian sovereign-state became ‘the agent of development’ across the postcolonial world.⁴⁴ In developing nations, projects to improve political systems, infrastructure, population health, and national industries were reduced to a common international formula of nation-building as development. Conserving a unified state became a priority, and the national territory and population were established as the appropriate and exclusive scenario for development.

In Colombia, as in much of the Third World, recognition of the nation-state as the vehicle of development faced several challenges. National governments were accused of not representing nationwide interests and urged to become truly democratic in front of the diversity of their territories and population and to effectively embrace the new standards of governance – such as transparency and the protection of the rule of law. On the other hand, these same national governments, especially represented through national industries or centrally planned development projects, were increasingly seen as economically inefficient. Instead of promoting development, they were accused of retarding the achievement of better standards of living and the consolidation of functional and competitive national markets. The state’s retreat from direct participation in the economy, yet a strong presence through administrative action and strategic regulation, became a better form to foster development. As a result, the idea of a new form of state presence across territory and population took shape, in which local interests and realities became keys for development as nation-building. In the next sections, I review in detail the particularities of this transition from the national to local in the Colombian context.

A. Development in Colombia (1950s-1980s)

The recent history of development interventions in Colombia is coupled to nation-building anxieties that are both a legacy of the country’s colonial past and a response to the country’s violent present. Although internal conflict has been a consistent feature of the Colombian landscape since independence from Spanish rule, the intensity of violence increased during the second half of the 20th century when the bipartisan struggle evolved into a fratricidal war – *La Violencia* (1948-

⁴³ *Ibid.* p. 79.

⁴⁴ A. Anghie, *Imperialism, Sovereignty and the Making of International Law* (New York: Cambridge University Press, 2004), p. 205.

1964) – and the nation faced a more challenging international economic outlook.⁴⁵ *El Frente Nacional*, a disempowering institutionalization of bipartisanship that lasted until the early 1970s, followed *La Violencia*.⁴⁶ Under the political arrangement of *El Frente Nacional*, Colombian national governments engaged in establishing official institutions, and aggressively pursued social reform programmes to make the state's presence effective across the national territory.⁴⁷

Development in Colombia was initially promoted through state-managed import substitution strategies. These were officially adopted under the auspices of the United Nations Economic Commission for Latin America and the Caribbean (ECLAC).⁴⁸ ECLAC's development policies were based on the argument that liberal internationalism promoted a system of dependency that furthered capital accumulation by the already developed economies. ECLAC's alternative route to development – decoupling the national economy from the international system by replacing industrial imports with domestic production under protective tariffs and promoting national industrialization – suited *El Frente Nacional*'s nation-building agenda. The policy of import substitutions enabled rural areas of the country to industrialize and to obtain a measure of independence from Colombia's major cities, while simultaneously increasing urban household incomes and reducing urban violence. In these terms, import substitution strategies were an effective instrument to activate the nation-building project within the Colombian state.

By mid 1970s, however, the combined effects of expanding industrialization, endemic violence in rural areas and the modernization of agriculture had led to a disproportionate growth of Colombia's urban population. Although import substitution programmes had increased household wealth and

⁴⁵ See especially, United Nations Development Programme, *El Conflicto, Callejón con Salida: Informe Nacional de Desarrollo Humano para Colombia* (Bogotá: Naciones Unidas, 2003), pp. 285-319; F. Safford and M. Palacios, *Colombia: Fragmented Land, Divided Society* (New York: Oxford University Press, 2002); F. González, I. Bolívar and T. Vázquez, *Violencia Política en Colombia: De la Nación Fragmentada a la Construcción del Estado* (Bogotá: CINEP, 2003), pp. 345-370; P. Oquist, *Violence, Conflict, and Politics in Colombia* (New York: Academic Press, 1980), p. xi. See also, M. Roldán, *Blood and Fire: La Violencia in Antioquia, Colombia, 1946–1953* (London: Duke University Press, 2002); G. Guzmán Campos, O. Fals Borda and E. Umaña Campos, *La Violencia en Colombia* (Bogotá: Taurus, 2005).

⁴⁶ See for example, B. M. Bagley, "Colombia: National Front and Development", in R. Wesson (ed.), *Politics, Policies, and Economic Development in Latin America* (Stanford, Calif.: Hoover Institution Press, 1984), p. 124-160.

⁴⁷ See especially, G. Hoskin, "Colombian Political Parties and Electoral Behavior During the Post-National Front Period" in D. L. Herman (ed.), *Democracy in Latin America: Colombia and Venezuela* (New York: Praeger, 1988), p. 47-62; R. A. Thoumi, "Post-War and Post-National Front Economic Development of Colombia" in D. L. Herman (ed.), *Democracy in Latin America: Colombia and Venezuela* (New York: Praeger, 1988), p. 63.

⁴⁸ See especially, A. Escobar, *La Invención del Tercer Mundo: Construcción y Deconstrucción del Desarrollo* (Bogotá: Norma, 1996), pp. 113-198.

improved social mobility, the legacy of violence and the capture of the state by the traditional political parties during *El Frente Nacional* had nurtured a complex system of interdependent conflicts that could no longer be contained. At the beginning of 1980s, the discourse of development, which had fuelled earlier governance efforts in Colombia, seemed exhausted. The technology required for competitive production of basic consumer goods became expensive, and often could only be obtained through association with foreign companies at high levels of public indebtedness. The emphasis on industrialization had led to a deleterious neglect of diversity in the agricultural sector and the concentration of agro-investment into exportable crops, such as coffee, bananas and sugar cane. As rural conditions deteriorated, the highly profitable production of narcotics took hold in rural areas, becoming intertwined with the financial activities of guerrilla groups, paramilitary groups and local politicians.⁴⁹

Colombia's internal problems were exacerbated by the global recession of the 1970s. The crisis that followed the Arab oil embargo of 1973 and welfare reform in the developed world precipitated an intellectual shift in approaches to the modernisation of developing nations. The regulated system of capital flows and global trade established at Bretton Woods in 1944 was freshly perceived to impede economic competency and to promote market distortions that obscured the impact of national debts and propped up fictitious growth. At the same time, the import substitution strategy of segregating a national market from the global economy began to be regarded as isolationist and chimerical by international and Colombian development agencies.⁵⁰ It was no longer accepted that state-sponsored development plans – especially those related to infrastructure and housing projects – would bring the enormous benefits that had previously been predicted.⁵¹ Opening an economy to unrestricted flows of financial capital and

⁴⁹ F. Gutiérrez Sanín, T. Acevedo and J. M. Viatela, 'Violent Liberalism? State, Conflict and Political Regime in Colombia, 1930-2006: An Analytical Narrative on State-Making' (Working paper No. 19, Crisis States Research Center, London School of Economics, 2007), p. 15.

⁵⁰ See especially, Escobar (1996), *supra* note 48, pp. 199-254.

⁵¹ The pinnacle policy document at this time was the Colombian National Development Plan "The Four Strategies" (*Las Cuatro Estrategias*) under president Misael Pastrana (1971-1974). The plan had an urban component called "Cities within the City". The general idea of the plan was to ensure that through state control of the economy's key commanding heights (promotion of exports, savings and employment by housing construction, and mechanization of the agriculture) and management of macroeconomic variables to produce a more equitable distribution of wealth, cities would become the nucleus of Colombia's development and economic growth. In "The Four Strategies" plan, previous attempts at urban planning, from colonial times to the zoning efforts made during the modernisation period were considered to have been 'inconsistent, fragmented, uncoordinated, negative'; therefore, the new model of national planning had to ensure comprehensiveness and integrity. The final objective was to promote national economic growth by capital accumulation and to increase industrial productivity in the cities where work and housing were in close proximity. Departamento Nacional de Planeación, *Ciudad dentro de la Ciudad: la*

goods, de-regularization, privatisation, reduction of state expenditure, fiscal discipline, tax reforms and the promotion of exports were introduced as the keystones of good development policy. Whereas previous efforts at nation-building were materialized in an institutional aggrandisement of the central state in order to promote economic growth and inspire public imagination for a Colombian nation, the following years of nation-building as development were marked by a contractionist approach.

For Colombia, the worldwide shift in economic thinking precipitated a domestic crisis with a distinctive urban character that erupted in the mid-1980s. Social and economic exclusion become visible through the intensification of grassroots activism, including organized demonstrations against public utility providers and the taking of private urban land to establish illegal neighbourhoods.⁵² As Colombia's external debt grew and the state became unable to provide services and security across the nation, Colombia's major cities – and Bogotá in particular – received a steady influx of internal migrants, even though local governments lacked the political and economic independence to provide sufficient housing or infrastructure to their new residents. By the end of the 1980s, Colombia's major cities were overpopulated and hamstrung by the reduction of national allocations for local development investments.

Economic liberalization, central-state contraction and state-managed exports, the new avenues to promote development, again faced unenviable prospects in Colombia. During the 1960s and 1970s, Colombia was an agro-exporting rural country with an incipient industrial sector. While these were not sufficiently profitable to reverse the economic inequality that sustained the political violence in Colombia, both sectors were within the realm of government control and aligned with the project of consolidating sovereign presence across the country. During the 1980s and 1990s, however, Colombia's primary exports became minerals and narcotics, the former highly dependent on the international market and the latter illegal.⁵³ Instead of a feasible consolidation of the nation-building project, the model of development based on exports generated a closed system of economic constraint, internal violence and international disciplining due to sanctions against Colombia. The final means for state sovereign promotion –

Política Urbana y el Plan de Desarrollo de Colombia (Bogotá: Departamento Nacional de Planeación, 1974). See especially on the theoretical underpinnings of this model of national development through urban development in Colombia during the 1970s-1980s, L. Currie, *Urbanización y Desarrollo* (Bogotá: Cámara de Comercio de la Construcción, 1988).

⁵² Rueda García and Rueda Sinisterra (2005), *supra* note 27, p. 39.

⁵³ According to Gutiérrez, Acevedo and Viatela, the most reliable estimates of Colombia's coca production suggest that it currently accounts for between 5% and 7% of the national GNP. This is significantly greater than the fraction of GNP due to coffee production (1.5%) and remittances (2.5%). F. Gutiérrez Sanín, T. Acevedo and J. M. Viatela (2007), *supra* note 49, p. 22.

the capacity to control legitimately and profit from its national market and labor force – were diminished.

During this period, the failure of nation-building as state development became a common theme in academic literature on the economy and the politics of violence in Colombia. According to this body of literature, the Colombian state's inconsistent presence across its territory and population was, and continues to be, the main cause of the nation's unrest. Versions of this hypothesis are usually referred to as *Teoría de la Fragilidad de la Presencia del Estado*, Fragility as a Result of the Lack of State's Presence.⁵⁴ Proponents of the theory argue that the drastic de-ruralisation and urbanization of Colombia during the 20th century, the difficulty of Colombia's topography, the factual absence of security, the incapacity of the state to effectively promote and profit from market-led development, and the lack of utilities, basic education and public health services to large rural regions and impoverished urban areas have resulted in a discontinuous terrain of political representation – a phenomenon described by Gutiérrez, Acevedo and Viatela as a stateless demographic occupation.⁵⁵ Under these conditions of institutional absence and disempowerment, the state has not been able to represent the collective because it lacks a territorial and subjective presence. Instead, the state represents both an illegitimate accumulation of power in the head of the national government, and a pernicious geographical jurisdiction that promotes a false unity, while fostering an inequitable distribution of power and an inefficient economic environment. As the state does not offer security, opportunities and services to its members, its integrity is diluted, and the presence and effectiveness of its sovereign power progressively eroded.

While this geo-political description of Colombia was initially employed to explain the rise and consolidation of guerrilla and paramilitary groups, it also surfaced in official development discourse. International development agencies, as well as prominent Colombian legal and political figures and social movements, criticised the state as an archaic, bloated, and overly bureaucratic instrument for

⁵⁴ See especially, Comisión de Estudios sobre la Violencia, *Colombia: Violencia y Democracia. Informe presentado al Ministro de Gobierno* (Universidad Nacional de Colombia, 1987). See also, I. Rementería, "Hipótesis sobre la Violencia Reciente en el Magdalena Medio", in G. Sánchez and R. Peñaranda (eds.), *Pasado y Presente de la Violencia en Colombia* (Bogotá: CERC, 1986), 333-348; D. Pécaut, *Colombia: Violencia y Democracia*, 13 *Análisis Político* (1991), 35-49; *Id.*, *Presente, Pasado y Futuro de la Violencia*, 30 *Análisis Político* (1997), 3-36; F. González, "La Violencia Política y las Dificultades de la Construcción de lo Público en Colombia: Una Mirada de Larga Duración", in J. Arocha, F. Cubides and M. Jimeno (eds.), *Las Violencias: Inclusión Creciente* (Bogotá: Universidad Nacional de Colombia, 1998), 163-185; M. T. Uribe de Hincapié, *Las Soberanías en Disputa: ¿Conflicto de Identidades o de Derechos?* 15 *Estudios Políticos* (1999); Safford and Palacios (2002), *supra* note 45; González, Bolívar, Vázquez (2003), *supra* note 45.

⁵⁵ F. Gutiérrez Sanín, T. Acevedo and J. M. Viatela (2007), *supra* note 49, p. 35.

development.⁵⁶ These critics advocated a process that would devolve political autonomy to sub-national territorial units, coordinate governmental interventions around sub-national territorial development, focus public resources, welcome private capital and public-private partnerships to assume previously central-state functions, and increase political accountability through administrative and financial decentralization.⁵⁷ Decentralization in this form entered the social and political imagination as a golden opportunity for democratic and economic reform of the fragile Colombian state.

B. Development Changes Places

The contestation of the state as the ideal space for development, and a preference for the locality as the most suitable replacement, were not unique to Colombia.⁵⁸ Rather, there was an international transformation in development and global governance thinking, for which *The United Nations Vancouver Declaration on Human Settlements* (1976) served as a clear normative referent. According to the *Declaration*, the provision of health, nutrition, education, security, recreation and other essential services in all parts of developing countries ‘should be geared to

⁵⁶ Jaime Castro, a successful politician from Bogotá, is a good example of a local actor in the process of decentralizing development in Colombia. He presented, as a Senator, a proposal for elections of mayors in 1980s. In 1984, as Minister of National Affairs he presented the project that would later become the legislative act that changed the Constitution in 1986 in which the popular election of mayors was approved. See *infra* note 67. As one of the 1991 constitutional reformers, he promoted higher decentralization measures for Bogotá. As a mayor of Bogotá, Castro brought and legalized decentralization in the city through the *Estatuto Orgánico de Bogotá, Decreto 1421* (1993) – See section III.A. *infra* of this paper for a detailed discussion of this norm. See especially, J. Castro, *Respuesta Democrática al Desafío Guerrillero* (Bogotá: Oveja Negra, 1987); *Id.*, *Descentralizar para Pacificar* (Bogotá: Ariel, 1998).

⁵⁷ See for instance on the use of administrative, fiscal and political decentralization as a way to overcome the fragility of the Colombian state, G. Bell Lemus, “The Decentralised State: An Administrative or Political Challenge?”, in E. Posada Carbó (ed.), *Colombia: The Politics of Reforming the State* (New York: St. Martin's Press, 1998); E. Wiesner, *Descentralización y Federalismo Fiscal* (Bogotá: Departamento Nacional de Planeación, 1992); Departamento Nacional de Planeación, *Evaluación de la Descentralización Municipal en Colombia: Balance de una Década* (Bogotá: Departamento Nacional de Planeación, 2002); A. Alesina, *Reformas Institucionales en Colombia* (Bogotá: Fedesarrollo; Alfaomega, 2001). See also on early decentralisation in Colombia during the 1960s-1970s, Ministerio de Hacienda y Crédito Público, *Las Finanzas Intergubernamentales en Colombia: Informe de la Misión de Finanzas Wiesner-Bird* (Bogotá: Ministerio de Hacienda y Crédito Público, 1981); F. Rojas et al, *Informe Especial: Descentralización y Administración Municipal*, 210 *Revista Economía Colombiana* (1988); L. F. López Garavito, *Pensamiento Económico y Fiscal Colombiano* (Bogotá: Universidad Externado de Colombia, 1998).

⁵⁸ See *supra* note 13.

the needs of the community and receive an effective priority in national and development planning and the allocation of resources.⁵⁹ The *Declaration* recommended that development should be achieved through:

National equalization programmes and subsidies to provide equitable geographic and social accessibility to all segments of the population;
Reorientation of legislative, institutional and financial measures, with the object, in particular, of bringing about the involvement of the people in meeting their own needs;
Decentralization of the administrative and financial machinery [of the state] in order to provide a greater measure of management at the community level; [...].⁶⁰

For both the international development community and Colombian political figures, development remained the suitable instrument to actualise sovereign power. But rather than departing from the macro-variables of the state (territory, population and government), a refined approximation to local territory and population now seemed to promise a more effective nation-building strategy, a geographical configuration more attuned to the disciplines of a ‘post-welfare state era’.⁶¹ As Daniel Treisman has observed, decentralization – along with democracy, competitive markets, and the rule of law – has come to be seen as a cure for a remarkable range of political and social ills.⁶² In a decentralised administrative framework, local government becomes the ideal scenario for “good institutions” (e.g. good governance, respect of the rule of law, protection of property rights and honouring of contracts) to take root and have their intended effects.⁶³ By transferring responsibility for the provision of health, education,

⁵⁹ *The Vancouver Declaration on Human Settlements*, United Nations Conference on Human Settlements (Habitat I), A/CONF.70/15 (1976). See especially in the *Declaration*, Vancouver Action Plan: Recommendation C.15: Social services. See also *supra* note 11.

⁶⁰ *Ibid.*

⁶¹ R. M. Bird and F. Vaillancourt (eds.), *Fiscal Decentralization in Developing Countries* (Cambridge; New York: Cambridge University Press, 1998), p. xiii.

⁶² Treisman, (2007), *supra* note 1, p. 1. See also, Craig and Porter (2006), *supra* note 14, pp. 5-6.

⁶³ See especially on the contemporary theoretical basis for the promotion of institutions as the basis to enhance political and economic governance, D. North, *Institutions, Institutional Change and Economic Performance* (Cambridge; New York: Cambridge University Press, 1990). See especially on an early appraisal of decentralization as a way to improve the institutional environment of local governments, D. A. Rondinelly, J. R. Nellis and G. Shabbir Cheema, *Decentralization in Developing Countries: A Review of Recent Experience* (Working Paper No. 581, The World Bank, 1983). See especially on the role of *Institutionalism*, as a school of thought, in the promotion of the decentralization of development, Craig and Porter (2006), *supra* note 14. See for an “institutional” approximation to Colombia’s decentralization of development, Angell, Lowden and Thorp (2001), *supra* note 3, pp. 1-78. See for an official reading of Colombia’s

water infrastructure, housing and recreation from the state to the municipality, decentralization aims to transform the latter into the locus of economic development, and to establish a new source of legitimacy for the former.

This new spatial dimension of development and development's role in nation-building have more recently been confirmed in the World Bank's *World Development Report 2009: Reshaping Economic Geography*. Faced with the increasing concentration of production and wealth within particular locations and, as a result, an increasing geographical disparity both within developing states and across the world, the *Report* recommends national development policies that are 'calibrated to match the difficulty of the development challenge, determined by the economic geography of places.'⁶⁴ For the World Bank, the current challenge for developing states is to use instruments of economic integration (in the form of institutions, infrastructure and incentives) to even out the geography of development such that 'living standards of people [are] more uniform across space.'⁶⁵ The Bank's suggestion for Third World states is to identify underdeveloped pockets within their national territories, to assess their development potential, and to devise possible solutions based on the pros and cons of their spatial location. Through awareness of underdevelopment's spatial origins, Third World states will be able to intervene strategically across their national space, rectifying spatial impediments and profiting from local spatial advantages, while still aiming for overall national economic growth. In this context, decentralization is the politico-administrative avenue for Third World states to come into contact with the entirety of their territory and population, tackling underdevelopment at the local level, with local knowledge, local mechanisms of accountability and a hierarchy of supervision.⁶⁶

Responding to the international and domestic push for decentralization, Colombian President Belisario Betancur (1982–1986) passed a constitutional amendment for the popular election of local mayors in 1986.⁶⁷ In an interview, President Betancur explained his support for this measure:

... I had the obsession that the community should be closer to their representatives. I knew that as long as the community was closer to the

decentralization of development from an institutional perspective, E. A. Gonzalez Salas, *Evaluación de la Descentralización Municipal en Colombia. Componente de Capacidad Institucional* (Archivos de Economía No. 169, Departamento Nacional de Planeación, 2001).

⁶⁴ The World Bank, *World Development Report 2009: Reshaping Economic Geography* (Washington D.C.: World Bank, 2009), 1.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*, 230-259.

⁶⁷ See Colombia, *Acto Legislativo 1* (1986). Since the 1886 Colombian Constitution, Colombian presidents had appointed the governors of departments, who in turn appointed the mayors of municipalities.

rulers, those rulers would feel more stimulated, with greater support to govern... If popularly elected, mayors would be freer and more efficient.⁶⁸

From Betancur's belief in the positive outcomes of bringing government closer to the people, the 1986 constitutional amendment officially inaugurated the process of Colombian administrative and financial decentralization, which would become the driving force behind local development during the drafting of a new constitution in 1991.⁶⁹ Democratization of the local level was also the political foundation that accompanied the process of economic liberalization that Colombia undertook during the 1990s – a process known as *La Apertura*, and enacted through President Cesar Gaviria's Development Plan *La Revolución Pacífica* (1990-1994).⁷⁰ Dismantling state control of the economy was coupled to a debunking of the state's geography as the suitable territory for development. The central state, which had previously aspired to be a monolithic presence in its citizens' daily-life, became viewed as an irrational and intrusive figure.⁷¹

Advocates of decentralization in Colombia cited four main reasons why local government could successfully promote development where the state could not. First, localities were represented as the 'schoolhouses of democracy' envisaged by Alexander de Tocqueville: accessible, participatory and accountable to their electorates.⁷² Second, the transfer of development responsibilities from the state to the local level promised to increase the flow of information between local administrations and the people.⁷³ Here, advocates of decentralization argued that bringing the government and the people closer would enable the local administration and private local service providers to identify the characteristics, needs and dissatisfactions of the people of whom they were now the direct representatives or suppliers, improving resource allocation through better knowledge of local preferences and an overall reduction of transaction costs. Third, decentralization would promote a healthy economic competition among

⁶⁸ T. G. Falletti, *A Sequential Theory of Decentralization: Latin American Cases in Comparative Perspective*, 99 *American Political Science Review* 3 (2005), 338.

⁶⁹ Restrepo (2006), *supra* note 17, pp. 370-373.

⁷⁰ See especially, M. Urrutia, "Economic Reform in Colombia", in H. Costin and H. Vanolli (eds.), *Economic Reform in Latin America* (Fort Worth: Dryden Press, 1998), pp. 217-241; Bell Lemus (1998), *supra* note 57, pp. 98-99.

⁷¹ This had become evident in the widespread strikes and demonstrations across Colombia in the 1970s-1980s. See especially, C. D. Collins, "Local Government and Urban Protest in Colombia", 8 *Public Administration and Development* 4 (1988), 421-436.

⁷² A. de Tocqueville, *Democracy in America* (1835-1840) (London: Penguin, 2003). See especially on the current view of cities as schoolhouses of democracy, Y. Blank, *The City and the World*, 44 *Columbia Journal of Transnational Law* 3 (2005-2006), 875-939.

⁷³ See especially, G. Stigler, "The Tenable Range of Functions of Local Government", in Joint Economic Committee, Subcommittee on Fiscal Policy, US Congress, *Federal Expenditure Policy for Economic Growth and Stability* (1957), 213-219.

localities. As originally formulated by Wallace E. Oates, devolving control over the local geography to local governments and actors – and the planning and provision of services within this space – would enhance inter-jurisdictional competition and innovation.⁷⁴ According to Oates, a decentralized territorial system ensures a level and combination of public services consistent with voters' preferences, while also providing incentives for the efficient provision of such services. Finally, reducing the space of development was considered to be the most effective way to enforce fiscal federalism. By decentralizing the government's expenditure and tax capture, local administrations and their citizens would be obliged to make the necessary *esfuerzo fiscal* (fiscal effort) to become financially sustainable and, therefore, politically responsible towards the overall economic viability of Colombia.⁷⁵

Reforms to Colombia's constitution in 1991 instituted the push towards economic and political decentralization. The main objectives of these reforms were to protect the fundamental rights of citizens, to enable effective community participation in public and private decision-making processes, to strengthen state institutions and to improve the national economy. Mindful of the state's uneven sovereignty across its territory, the new constitutional text adopted decentralization as a core principle. Colombia was defined, in article 1, as a united Republic, decentralized, constituted by autonomous local territories.⁷⁶ While the new Constitution recognized two sub-national administrative units – the department and the municipality – the latter was identified as the primary locus for development.⁷⁷ The municipality was declared in the new Constitution, article 311, as 'the fundamental entity in the politico-administrative division of the state.'⁷⁸ This process of municipalisation aimed to divide the state's geography into more flexible and economically responsive territorial units. Importantly,

⁷⁴ W. E. Oates, *Fiscal Federalism* (New York: Harcourt Brace Jovanovich, 1972).

⁷⁵ See especially on *esfuerzo fiscal*, Wiesner (1992), *supra* note 57; R. M. Bird and A. Fiszbein, "Colombia: The Central Role of the Central Government in Fiscal Decentralization", in R. M. Bird and F. Vaillancourt (eds.), *Fiscal Decentralization in Developing Countries* (Cambridge; New York: Cambridge University Press, 1998), pp. 179-181.

⁷⁶ See especially on the meaning and limitations of "territorial autonomy" in the 1991 Colombian Constitution, Trujillo Muñoz, (2007), see *supra* note 4.

⁷⁷ In Colombia there are around 1100 municipalities and 32 departments. The department is an intermediate administrative level. Although municipalities and departments are the two main territorial units identified in the 1991 Constitution, indigenous territories, regions and provinces were also created to recognize collective rights to land and to encourage the regrouping of bordering departments and municipalities. See Colombian Constitution 1991, arts. 285, 286, 329.

⁷⁸ See especially on interpretations of article 311 by the Colombian Constitutional Court, Colombian Constitutional Court, *Sentencia de Constitucionalidad* 506 (1995), Mag. Carlos Gaviria Diaz. See also, Colombian Constitutional Court, *Sentencia de Constitucionalidad*, 517 (1992), Mag. Ciro Angarita Barón; Colombian Constitutional Court, *Sentencia de Constitucionalidad* 004 (1993), Mag. Ciro Angarita Barón.

however, its goal was not to diminish the state's power: rather, empowering municipalities was supposed to invigorate the economic and political fluidity required by sovereignty in a globalized era.

Opposition to decentralization was, and still remains, quite minimal. The democratising energies embedded in the process, combined with the prospect of having more dynamic economic environments in the municipalities, generated a common consensus amongst officials, academics, non-governmental organizations, and social movements (including guerrilla groups) about the benefits of devolving political, administrative and development responsibilities to municipalities. After more than twenty years of decentralization, it is still regarded as the most adequate form to revitalize the nation-building project in Colombia. Critiques of decentralization are usually framed in terms of how can the administrative and fiscal coordination of the process be improved, how can it be protected from re-centralizing tendencies by the national government, how can it foster more democratic participation and economic efficiency, and how can it increase economic integration and social cohesion within localities and across the nation.⁷⁹

C. Decentralization and Sovereignty in Colombia

The emergence of the locality as the ideal space for development in Colombia has had consequences beyond a straightforward change in administrative philosophy. Several local law and development commentators have described the shift in Colombian development policy in quasi-mythical terms: Miguel Borja, for example, exalted the new approach as a move from a pre-modern political geography to a democratically modern conception of national space,⁸⁰ while Augusto Hernández Becerra affirmed that decentralization and territorial development were not simply an administrative reshuffling, but a programme of socio-pedagogic construction in which civilization would follow municipalisation – literally for Hernández Becerra, '*ahora municipalizar es civilizar*'.⁸¹ More

⁷⁹ See especially *supra* note 14. See for example on evaluations of decentralization in Colombia in which these tendencies can be found, P. Gaitan and C. Moreno, *Poder Local: Realidad y Utopía de la Descentralización en Colombia* (Bogotá: IEPRI, Tercer Mundo Editores, 1992); J. Dugas et al, *Diversidad y Retos de la Descentralización Local en Colombia*, 24 *América Latina Hoy* (2000), 45-54; F. Sánchez and M. Chacón, *Conflicto, Estado y Descentralización: Del Progreso Social a la Disputa Armada por el Control Local, 1974-2002* (Documentos CEDE No. 002184, Universidad de los Andes-CEDE, 2005); Gonzalez Salas (2001), *supra* note 63.

⁸⁰ M. Borja, *Estado, Sociedad y Ordenamiento Territorial en Colombia* (Bogotá: CEREC, 1999), p. 18.

⁸¹ A. Hernández Becerra, "Fundamentos Constitucionales del Ordenamiento Territorial Colombiano. Reflexiones sobre el Proceso de la Descentralización", in L. Villar Borda et al,

tangibly, however, the translation of development from the state to the municipality has led to complex assessments of liability and sovereign legitimacy. The Colombian national jurisdiction, for example, is no longer the only subject under international scrutiny: municipalities and their citizens are now also identified as responsible agents for the widespread underdevelopment, violence and indebtedness in Colombia. In the state's reconfiguration, municipalities have not only acquired the burden of the state's history of political decay and economic mismanagement but – as Colombia's stand-by agreements with the International Monetary Fund from 1999 to 2006 demonstrate – they have become contractually obliged with the global order to assume responsibility for fiscal arrangements previously entered into by the state.⁸²

Based on their economic adaptability, administrative malleability, direct accountability and apparent capacity to achieve financial and environmental sustainability, local jurisdictions have been charged with resolving issues that are not just national, but issues that are *per se* global (e.g. the provision of drinking water by local governments in an increasingly privatised market or, more generally, the achievement of the Millennium Development Goals in their local context).⁸³ Yet they must also operate within an international system that only recognizes nation-states and that increasingly delegates its functions to private actors.⁸⁴ Nation-states continue to be the primary units at the global governance

Régimen de las Entidades Territoriales (Bogotá: Universidad Externado de Colombia, 2000), p. 66.

⁸² See especially, Banco de la República, *Acuerdo de Colombia con el Fondo Monetario Internacional* (1999-2006), available at: <http://www.banrep.gov.co/publicaciones/pub_fmi.htm>, accessed 20 November 2007. See also, Restrepo (2006), *supra* note 17, p. 378.

⁸³ See in general on the assignation to the local level the provision of public services, T. F. Allred, *Financing Water Infrastructure Projects in Smaller Cities of the Developing World: Recent Trends* (Research Paper, UNDP/Yale Collaborative Programme, 1998 Research Clinic, New Haven, 1998), available at: <www.undp.org/pppue/library/files/allred01.pdf>, accessed 26 October 2007. See on the current responsibilities the local level has in Colombia's development policies (including provision of public services, education and health), H. López Castaño and J. Nuñez Mendez, *Pobreza y Desigualdad en Colombia: Diagnóstico y Estrategias – Misión para Diseño de una Estrategia para la Reducción de la Pobreza y la Desigualdad en Colombia* (DNP, World Bank, BID, UNDP, CEPAL, CAF, 2007). See on the assignation to the local governments the achievement of the Millennium Development Goals, United Nations Development Programme, *Pro-Poor Urban Governance: Lessons from Life 1992-2005* (2005), available at:

<www.undp.org/governance/docs/DLGUD_Pub_lifebook.pdf>, accessed 28 November 2008. See especially on the case of Bogotá as the vehicle to achieve the Millennium Development Goals, C. López, "Las Capacidades Locales para el Logro de las Metas del Milenio", in Fundación Konrad Adenauer, *Gobierno de Ciudades y Política Social en Colombia* (Bogotá: Universidad Externado de Colombia, 2006), pp. 3-20.

⁸⁴ According to Gilliam D. Triggs, even though there are other actors now recognised as having limited capacities within the international law system (International Organisations, NGOs, trans-national corporations and individuals), the state remains the dominant international person and 'is

level, even if at a national level the state has become a coordinating umbrella that – at least in theory – balances territorial inequalities and promotes the flourishing of individual municipalities. As Yishai Blank has observed, localities are now regarded ‘less as public entities, and more as elements of civil society like non-governmental organizations (NGOs) and private corporations and associations that have emerged as actors in the international plane.’⁸⁵ In the decentralized development model, localities must therefore follow the principles of financial, environmental and demographic sustainability and integral planning in order to become economically active, competitive, financially solvent and self-reliant. A municipality can achieve such an objective if it maintains an equilibrium – a *fiscal equivalency* according to decentralization theorist Mancur Olson – between its political jurisdiction, i.e. the territory under its control, and its economic jurisdiction, i.e. its population.⁸⁶ Following this development pattern, the final aim is to form sub-national jurisdictional systems in which sovereign power is efficiently present, while embracing and protecting its own population. Thus transformed, municipalities are supposed to radiate the benefits of their sovereign efficiency to the rest of the nation, and, ultimately, to the rest of the world. In the decentralization’s geographical imaginary, the development of localities is a bi-dimensional process: development within the locality is supposed to spread material benefits of economic prosperity to neighbouring districts, while at the same time, the municipality sets foot upon the ladder of development, now perceived to extend from the local citizen and her local municipality to the global stage (see Image 1). The remedy for sovereign weakness is the strategic segmentation of the national territory into manageable development units that can be linked horizontally (with neighbourhood localities) and vertically (to the

likely to remain so for some time’. State recognition plays a ‘dual and circular role in international law in acknowledging the legal capacities of international persons and providing a means by which international personas can act effectively.’ As a result, ‘a failure to gain recognition leads to a form of civil death.’ In principle, ‘the entity is legally non-existent and its activities will have no legal effect within the jurisdictions of other states.’ G. D. Triggs, *International Law – Contemporary Principles and Practices* (Sydney: LexisNexis Butterworths, 2006), pp. 208-209. An entity that is not recognised by other states will not, for example, have the rights and obligations in the law of state immunity, will have limited rights in the international community, and will be not admitted to international organizations. See especially, D. J. Harris, *Cases and Material on International Law* (London: Sweet & Maxwell, 6th ed., 2004), p. 146.

⁸⁵ Blank (2005-2006), *supra* note 72, p. 879.

⁸⁶ See especially, M. Olson, *The Principle of "Fiscal Equivalence": The Division of Responsibility Among Different Levels of Government*, 59 *American Economic Review* 2 (1962), 479-487. See how this idea of fiscal equivalency or integral development has been applied in Colombia, Departamento Nacional de Planeación, *Evaluación del Desempeño Integral de los Municipios 2007* (Bogotá: Departameto Nacional de Paneación, 2008).

national and the global level) through meticulous development planning and the facilitation of market forces.⁸⁷

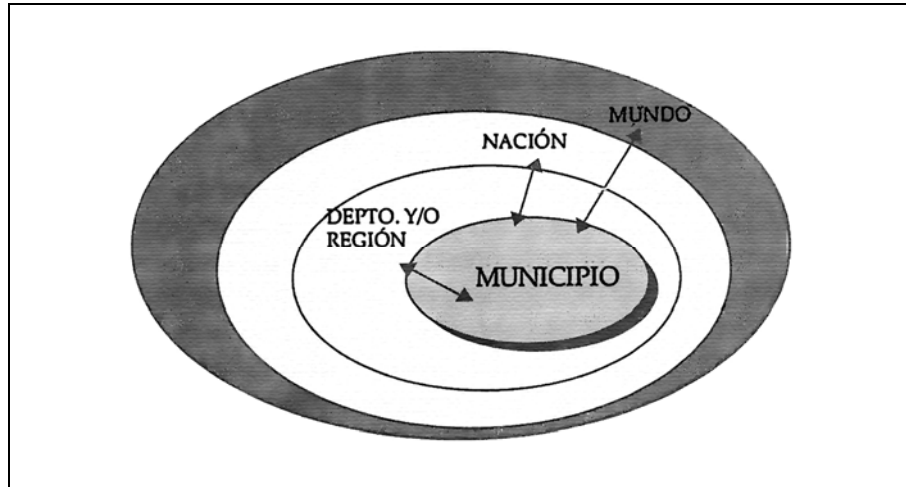


Image 1. A visual interpretation of the new system of overlapping jurisdictions envisaged in the current territorial development framework in Colombia. J. M. Garcés O'Byrne, *Plan de Ordenamiento Territorial: Manual Prospectivo y Estratégico* (1999), p. 3.

The localization of development has implied a radical exposure of the individual citizen to the forces of globalization. As the aspirations and benchmarks of development are devolved to the municipality, the citizen is increasingly confined to the local level in order to realize her rights. At the same time, the citizen becomes more responsible for the locality and the state and the interaction of these two with the global order. At this juncture, the underlying motivations for the shift from state to local development are laid bare: embracing the locality as the locus of development is not only driven by a generalised desire for economic progress, but is also a means for the acute disciplining of territory and population. From this vantage point, development's fixation with local jurisdictions appears less paradoxical, and more calculating. It is also perhaps clear why decentralization has become the preferred politico-administrative tool in development's repertoire to approach territory and population in Colombia, as in the Third World more broadly.

⁸⁷ See on promotion of this type of hierarchical aesthetics as a state-craft practice, J. Painter, *Prosaic Geographies of Stateness*, 25 *Political Geography* 7 (2006), 752-774; D. Gregory, *Geographical Imaginations* (Cambridge, MA: Blackwell, 1994); Ferguson and Gupta (2005), *supra* note 12. See generally on legal spatial imaginaries, N. K. Blomley, *Law, Space, and the Geographies of Power* (New York: Guilford Press, 1994).

In the Colombian context, the ideals of locality-driven development have not been fully achieved. Instead, the consequence has been the promotion of a normative armoury that responds according to a defensive formula of economic openness and self-protective territorial politics. Simulating a characterization once reserved for Third World states, wasteful and leaking local jurisdictional bodies have become synonymous with underdevelopment and weak sovereign communities that lack control over their territories. In front of the challenge to ensure sovereign presence, in order to achieve an integral and sustainable development, localities reacted by bringing their territory and population in neat correspondence – the traditional objective of nation-building. The net result has been that alongside the multiplication of jurisdictions and the multiplication of levels of governance there was also a multiplication of internal frontiers within the national geography and the increased surveillance of these borders and territories by local administrations, national governments and supra-national institutions. This awareness of the territorial body of the municipality, its proper extent and its borders, would become a key factor in official responses to Bogotá's Illegal City. Before I move to this discussion, I close this first section by discussing some of the technologies and regulations that have accompanied the arrival of the discourse of local development in Colombia.

D. Technologies and Regulations of Local Development

To unleash the development potential of Colombian municipalities, the incipient decentralized regime required technologies that were able to implement the development project at the municipal level. To this end, spatial planning – known in Colombia as *Ordenamiento Territorial* – was chosen as an efficacious instrument of development policy.⁸⁸ Spatial planning has been defined by UN-Habitat Colombia as:

A process in which a territory is adapted to the needs of its population. This process of adjustment requires the formulation of a vision, either objective or meta-consensual, and the design of *socio-economic* and *physical-environmental* strategies to achieve such objectives.⁸⁹

Although spatial planning has been widely used in the United States and France since the first half of the 20th century, the European Union (EU) policy

⁸⁸ See on spatial planning in the 1991 Colombian Constitution, arts. 288, 297, 299, 307, 319, 329.

⁸⁹ United Nations Development Programme et al, *Formulación y Aplicación de la Ley 388 de 1997 en Colombia: Una Práctica Colectiva Hecha Realidad* (Bogotá: Ministerio de Ambiente, Vivienda y Desarrollo Territorial, 2004), p. 182. [Emphasis added].

tools for jurisdictional construction and territorial development have provided the most updated template for the adoption of spatial planning in Colombia.⁹⁰ As the epitome of a *jus*-political project that reconfigures sovereignty at the sub-national and the trans-national level, the EU has relied heavily on spatial governance as the policy cornerstone to “make real” the EU’s presence across the continent.⁹¹ The adoption of spatial planning in Colombia was, in this way, a deliberate strategy to re-territorialize sovereign power within the close geography and economic conditions of local jurisdictions. As both a technology of and an approach to development, spatial planning has been used to surpass earlier development efforts that had failed to integrate socio-economic and territorial concerns in the nation-building project.

Spatial planning requires municipalities to synchronize their development objectives with effective use and control of their physical territories. Materializing the aspirations of development through spatial planning is perceived to be a fundamental disciplinary step in order for good governance to take root. Development ideals such as human rights and the promotion of the rule of law need to be “grounded” in the promotion of financial discipline, local awareness about the cost and benefits of infrastructure projects, taxation levels that match development expenditures, well-defined urban limits and a clear census of development’s beneficiaries within the municipal boundaries. Spatial planning thus provides municipalities with an instrument to articulate development within their jurisdictions, allowing the physical elements of development to encounter municipalities’ socio-economic aspirations.

At the national level, spatial planning is also a useful policy instrument with an enforceable framework that provides the state with a strong territorial presence through the disciplining of individual municipalities. In 2001, the Colombian

⁹⁰ In interviews carried out by the author, Colombian urban planning experts have affirmed that they brought Spatial Planning practices into Colombian legislation after academic visits to the US and to the EU, in particular to France and Spain, where they completed their post-graduate education.

⁹¹ O. B. Jensen, *Linking Discourse and Space: Towards a Cultural Sociology of Space in Analysing Spatial Policy Discourses*, 40 *Urban Studies* 1 (2003), 7-22. See especially, *European Spatial Development Perspective* (ESDP), (Agreed at the Informal Council of Ministers responsible for Spatial Planning, Postdam, May 1999); and the *Guiding Principles for Sustainable Development of the European Continent* (CEMAT), (adopted by the Committee of Ministers to Member States, 30 January 2002). Although the ESDP has no binding status, and the European Union has no formal authority for spatial planning, the ESDP has influenced spatial planning policy in European regions and member States, and placed the coordination of EU sectoral policies on the political agenda. See also, *The European Regional/Spatial Planning Charter* (European Conference of Minister Responsible for Foreign Planning, 6th Session, Torremolinos, Spain, 19-20 May, 1983); *The Territorial State and Perspectives of the European Union Document: Towards a Stronger European Territorial Cohesion in the Light of the Lisbon and Gothenburg Ambitions* (European Union, First Draft elaborated 26 June 2006).

Department of National Planning, the peak institutional body of development in Colombia, made its commitment to spatial planning explicit:

During this period of financial, fiscal, political and social crisis, spatial planning is a state policy and a fundamental planning tool. It fosters good governance practices, it collectively constructs an integrally developed country, and promotes territorial competitiveness amongst territorial units.⁹²

Since 1991, the Colombian Congress has enacted two pieces of legislation that marry spatial planning to the decentralized model of development.⁹³ The General Act of National Development – *Ley Orgánica del Plan de Desarrollo* (*Ley 152, 1994*) – is concerned with the criteria, instruments, general aims and procedures that the President of Colombia and local mayors should follow in order to enact a development plan for their respective jurisdictions and for the period of their mandates. In practice, this means that at the national level there must be a National Plan of Development and, at the local level, there must be a Local Development Plan (*Plan de Desarrollo Económico, Social y de Obras Públicas*).⁹⁴ The Local Development Plan should follow the general directions of the National Plan, but it has significant flexibility to address the particular characteristics of the municipality, such as demographics, geography and economic conditions. In the language of spatial planning, the Local Development Plan is intended to address socio-economic development within the municipality. The proper spatial dimensions of development, addressing matters such as the location of public expenditures, taxation, land occupation and environmental protection, are regulated through a second piece of legislation, the Act of Territorial Order – *Ley de Ordenamiento Territorial* (*Ley 388, 1997*).⁹⁵ The Act of Territorial Order prescribes directives concerning the scope and implementation of a Local Plan of Territorial Order, *Plan de Ordenamiento Territorial* (POT).

⁹² Departamento Nacional de Planeación, *La Importancia del Ordenamiento Territorial en la Integración, la Competitividad y el Desarrollo* (Documentos para el Desarrollo Territorial No. 41, Proyecto: Profundización de la Descentralización en Colombia Col/99/022, July 2001), available at:

<www.dnp.gov.co/archivos/documentos/DDTS_Ordenamiento_Desarrollo_Territorial/3c13_Doc_41.pdf>, accessed 26 November 2007.

⁹³ Apart from the general norms discussed in this paper, there is a large succession of normative interventions that has deepened fiscal and administrative decentralisation in Colombia. See especially on the statutory framework of decentralisation, *Ley 60* (1993). See on the decentralization of public utilities, *Ley 142* (1994). See on the creation of territorial pension funds, *Ley 529* (1999). See on the rationalization of local public expenditure, *Ley 617* (2000). See on the rationalization of national budget transfers to the localities, *Ley 219* (2000).

⁹⁴ In the World Bank's terminology, the Local Development Plan is translated as *City Strategy*. See especially, The World Bank (2007), *supra* note 27, p., 3.

⁹⁵ This norm was preceded by Colombian Urban Reform Act, *Ley 9* (1989).

Crucial for the decentralization of development in Colombia, POTs are legal texts that summarize the long-term spatial planning agenda of a local jurisdiction.⁹⁶

POTs have been defined as ‘the basic instrument for ordering the municipality’s territory... the collection of aims, directions, policies, strategies, programmes, decisions and norms enacted to guide and administer the physical development and the use of the municipality’s territory.’⁹⁷ Given the crucial role of space in the decentralized framework of development in Colombia, Local Development Plans must articulate their objectives within the comprehensive geographical schema of the municipality’s POT.⁹⁸ A POT is, in this way, not simply a long-term development plan:⁹⁹ it is a highly regulated, structured and institutionalized process for rethinking development spatially and for reshaping local realities according to development goals. A POT’s attention to space and territory, and to the people and society within that space, endows it with holistic ambitions. A POT specifies the physical dimensions of the municipal geography, the existing and proposed areas for occupation by urban settlement, rural settlement and agricultural production, as well as the planning requirements for neighbourhoods within the municipality’s urban jurisdictional boundaries. It covers the outcomes of participatory planning with the inhabitants of a given locality, budgetary constraints and municipal tax revenues, the location of urgent social issues within the municipality, and their relative priority. A POT thus encompasses both the development aspirations and the enormous responsibility that municipalities have acquired in the decentralization process.

Local Development Plans and POTs have been part of a response to the international trend in development thinking that connected decentralized nation-building strategies with the imperative to foster ‘conditions for urban sustainability’: liveability, competitiveness, good governance, and bankability.¹⁰⁰ In order to equip municipal jurisdictions with appropriate tools to discharge their new development responsibilities, POTs and Local Development Plans are

⁹⁶ *Ordenamiento territorial* was thus defined according to the Colombian General Act of Territorial Order, *Ley 388* (1997), art. 5, as ‘a collection of politico-administrative and spatial planning decisions enacted by municipalities... in exercise of their public responsibilities according to the Constitution and other relevant development laws. Appealing to this normative framework, municipalities will have efficient instruments to direct the development of their jurisdictional territories and to regulate the utilization, transformation and occupation of this space according to socio-economic local strategies of development and in harmony with their environment, historical traditions and local culture.’

⁹⁷ Colombian General Act of Territorial Order, *Ley 388* (1997), art. 9.

⁹⁸ United Nations Development Programme et al (2004), *supra* note 89, p. 48.

⁹⁹ A reduction that might be read into the World Bank’s translation of POT as a *Comprehensive Long Term Plan*. The World Bank (2007), *supra* note 27, p. 3.

¹⁰⁰ Liveability, competitiveness, good governance and bankability are the key criteria used by the World Bank to measure local development capacity. See especially, Kessides (2000), *supra* note 22, p. 64.

founded on the presumption of an identifiable existing city (*la ciudad existente*) that must be geographically fixed, a physical space where economic resources and administrative efforts can be directed in an operative, strategic and selective fashion. Here, the geography for legal settlement is technically determined by the urban perimeter. This circumscribed space – the new sub-national jurisdictional body – is then planned according to principles of integrity and sustainability, twin objectives that are meant to ensure a locality's good governance, competitiveness, financial proficiency, social cohesion and common identity for the municipality's residents. Municipalities thus may expand and contract according to their capacity to develop their territory and subjects, fulfilling the definition of sovereign spatial economy.

Configuring local development as a spatial sovereign economy has had at least two important consequences for development within Colombian municipalities. Most apparent is that the area inside the urban perimeter has become the development priority, the physical space where commitments to financial accountability, efficient resource allocation, public infrastructure maintenance and environmental sustainability are enacted and evaluated. However, a further urban space has been created through the definition of the official development target: an 'Illegal City' constituted by informal settlements, illegal neighbourhoods, which fall outside the administrative boundaries and zoning described in the municipal POT and lie beyond the core of the Local Development Plan.

In Colombia, informal urban settlements are commonly called *invasiones*, a term that conveys two types of legal transgression.¹⁰¹ An *invasión* may refer to a settlement that occurs outside the urban perimeter, or in an area prohibited by the municipal POT. In this case, the settlement has been established without official planning permission: examples of this type of *invasión* include the occupation of environmentally-reserved areas, regions beyond the municipality's public infrastructure network, or zones that local planning authorities have reserved for future urban expansion. Regardless of the situation of the neighbourhood in relation to the legitimate possession of property titles, these neighbourhoods and their inhabitants contravene national and local urban legislation. Secondly, informal settlements that traverse the border between municipalities may also constitute an *invasión*. While the municipal border technically divides the settlement between the two adjoining jurisdictions and the informal conditions are prevalent in both municipalities, inhabitants may claim membership to a single –

¹⁰¹ Apart from *Invasiones*, illegal neighbourhoods are also known as *barrios marginales* and *barrios piratas*. Officially, they are known as *barrios informales*, *asentamientos subnormales*, or *desarrollos ilegales*. They are defined as 'urban settlements where the occupation and development of the land has been carried without any planning and contravening required legal permits and licences.' Rueda García and Rueda Sinisterra (2005), *supra* note 27, pp. 32-33.

normally the richer – municipality on the basis of cultural, political or economic ties, or for strategic reasons.¹⁰² In this case, the illegal residents' claim contravenes Colombia's general administrative territorial and jurisdictional division. In practice, however, distinguishing between types of *invasion* is a legal subtlety: informal settlements – which are a common feature across the Colombian urban landscape – are closely linked to the economic conditions of their inhabitants and the limited capacity of municipal administrations to offer housing solutions for their poorest population. The success of the decentralized development model is preconditioned on the effective performance of sovereign power at the municipal level, not only to achieve development goals but also to police unauthorised urban development that threaten the sustainability and integrity of the municipalities and their role in the reconstruction of the Colombian state.

III. BOGOTÁ'S SUCCESS UNDER THE NEW MODEL OF DEVELOPMENT

The success of the local development model and the exclusionary outcomes of well-functioning sovereign spatial economy are most evident in Bogotá. A large number of citizens seek to make a new life in Colombia's capital, but many of them lack the minimum economic resources to legalize their condition (e.g. payment for public utilities, land tax or rent). The city of Bogotá, on the other hand, has had the administrative power to pursue the integrity and sustainability of its legal territory, and to increasingly identify and to exclude illegal neighbourhoods from urban development projects.¹⁰³ Bogotá, at the same time,

¹⁰² For example, some irregular settlements south-west of Bogotá are technically part of the neighbouring municipality of Soacha (in particular in the area of *Altos de Cazucá* which is located on the border with Bogotá). In Soacha these neighbourhoods are also considered illegal. Inhabitants of these neighbourhoods in Soacha, however, constantly claim membership to Bogotá. This is because of historical and economic connections to Bogotá and the basic fact that Bogotá's administration controls more financial and administrative resources for social expenditure and formalization of illegal neighbourhoods. This claim to membership to Bogotá has been several times registered by the author during fieldwork observations and interviews with residents and community leaders in the area of *Altos de Cazucá*. See especially, *supra* note 29.

¹⁰³ For example, Bogotá has consolidated a map (*Mapa Único de Prevención y Monitoreo*) for the strategic surveillance of illegal neighbourhoods. The agency in charge of creating and updating the map is the *Dirección Distrital de Inspección, Vigilancia y Control de Vivienda*, part of *Secretaría Distrital del Hábitat*. The map coordinates the action of several local agencies responsible for controlling the expansion of illegal neighbourhoods – including those agencies that are part of the *Comité Técnico de Legalización*, which is the collective organ in charge of neighbourhood legalization in Bogotá (see *infra* note 129). The map summarizes information collected on the ground, aerial maps and cadastral maps, into a single electronic map that aims to offer an updated version of the number, location and population of illegal neighbourhoods, as well as the areas of

has the resources to carefully include its illegal neighbourhood once the city is ready for their acceptance. Bogotá is thus a double space: the Legal City – the target of development programmes that have made Bogotá into an international exemplar of governance – shares its physical geography with an Illegal City, a collection of illegal neighbourhoods with a ghostly population ring of almost one million people.¹⁰⁴ The existence and operation of Bogotá's legal/illegal binary over the city's territory and population is, in this way, symptomatic of the new type of spatial dynamics embedded in the decentralization model.

In order to make sense of how Bogotá has consolidated a legal/illegal spatial arrangement through its commitment to decentralized development, I examine here two expressions of the city's hold over its territory and population. First, I analyse the role of cartography in Bogotá's development policies, norms and dynamics. In particular, I am interested in the communicative role of official maps. I argue that official maps transmit a shared, yet enforceable, aesthetics of a local jurisdiction founded in the maintenance of a sovereign spatial economy, an image that dominates the representation of the Legal City in public discourse. To complement this discussion, I then examine the neighbourhood legalization programmes that formally induct illegal citizens into the body-politic of Bogotá. Finally, I identify some features of Bogotá's experience with local development that seem characteristic of a new global regime of sovereignty.

A. Bogotá Gains Strength through Decentralised Development

To situate my critical reflections on Bogotá's governance of territory and population, it is necessary to summarise some aspects of the city's legal adoption of the decentralized development framework. The ideals of autonomy and decentralization, territorial planning, and integral and sustainable development were grounded at the beginning of the 1990s in a special juridical framework for

the city that are at risk of illegal settlement. The map also prioritises the need for control and surveillance of these neighbourhoods and areas according to an assessment of urbanization dynamics in the area and the history of the area in terms of illegal settlements. Similar strategic mechanisms for the surveillance of the establishment and growth of illegal neighbourhoods have been implemented by the electricity company and the water company of Bogotá. See *infra* subsection III.C.

¹⁰⁴ See especially, A. Niño Ruiz (2006), *supra* note 27, p. 36; The World Bank, Project Appraisal Document: Bogotá Urban Services Project, Report No.: 24941-CO, (14 February 2003), available at:

www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=64187283&theSitePK=523679&entityID=000094946_03022604021461&searchMenuPK=64187283&theSitePK=523679, accessed 1 June 2009; Secretaría Distrital del Hábitat (2008), *supra* note 27.

the city, the *Régimen Especial para el Distrito Capital de Bogotá*, also known as the *Estatuto Orgánico de Bogotá* (*Decreto* 1421, 1993).¹⁰⁵ The statute, which serves as a kind of local constitution, identified and regulated the city as the Capital District of Colombia (*Distrito Capital*). With this recognition, Bogotá was able to institutionalize its attributes of power in relation to Colombia's other major cities, while the new administrative status allowed Bogotá a high level of territorial and financial independence.

The *Estatuto Orgánico de Bogotá* was articulated further in the city's POT (*Decreto* 619, 2000 and revised for second time in the *Decreto* 190, 2004)¹⁰⁶ and the city's Local Development Plans: "*Formar Ciudad*" 1995-1998 (*Decreto* 295, 1995); "*Por la Bogotá que Queremos*" 1998-2001 (*Acuerdo* 6, 1998); "*Bogotá para Vivir Todos del Mismo Lado*" 2001-2004 (*Decreto* 440, 2001); "*Bogotá Sin Indiferencia*" 2004-2008 (*Acuerdo* 119, 2004); "*Bogotá Positiva: Para Vivir*

¹⁰⁵ See for instance in the case of autonomy, *Decreto* 1421 (1993), arts. 1, 7, 59. See on the case of decentralization, *Decreto* 1421 (1993), arts. 12, 13, 39, 40, 54, 60-95. In spatial terms, one of the most relevant effects of the introduction of these legal principles into the administrative and spatial logic of the city was the division of Bogotá into 20 localities. The localities received, in addition to administrative functions and budgetary allocations, representative authority and autonomy to advocate for their population and territory. See especially, Equipo de Servicios Públicos Cinep (1993), *supra* note 27, pp. 50-61. See for instance in the case of territorial planning, *Decreto* 1421 (1993), art. 3: 'The objective of this political, administrative and fiscal norm is to equip the *Distrito Capital* with the necessary instruments for the fulfilment of its functions and the provision of the services under its responsibility; the promotion of an integral development of its territory; and the improvement of the living standards of its inhabitants.' Although sustainability was not directly mentioned in the *Estatuto Orgánico de Bogotá*, the notion of sustainability as a principle that refers to economic, social and environmental development was stated in different parts of the norm. For instance art. 12, 'Attributions: It is the attribution of the Local Council, attending the Colombian Constitution and other national norms, to: ... 3. Establish, reform or remove rates, taxes and contributions; organize tax exemptions; and establish an effective system of tax retention and advance payment that aim to guaranteed an effective collection of these resources. 4. Enact the necessary organic budgetary norms as well as to enact annually the norms of the income and expenses. ... 5. Enact the city's POT, which must include amongst other items, regulation about the use of land and the physical development of the city's urban and rural areas. On the basis of these decisions, the Local Council will enact the necessary norms to accomplish these processes of urbanization, zonification and the construction of urban infrastructure. ... 7. Enact the necessary norms to guarantee the preservation and defense of the city's environmental resources.'

¹⁰⁶ Even though *Decreto* 619 (2000) and *Decreto* 190 (2004) diverge at many points and were enacted by different mayors (the former by Antanas Mockus, and the latter by Lucho Garzón), I refer to both of them as one policy: the POT. In Bogotá, POTs are complemented by plans for individual localities and sectoral plans (*Planes Maestros*) in the areas of education, public health, and social well-being; security, justice and defence; culture, recreation and sports; aqueduct, sewerage, energy, gas, telecommunications, mobility and public space; secure supply of food; cults, cemeteries and funeral services; and exhibition centres. See also on previous laws in Bogotá dealing with territorial ordering; *Acuerdo* 30 (1961); *Acuerdo* 65 (1967); *Acuerdo* 07 (1979).

mejor” 2008-2012 (*Acuerdo* 308, 2008).¹⁰⁷ Bogotá’s POT follows the *Estatuto Orgánico*’s agenda of greater autonomy and independence from the rest of Colombia. As in other Colombian cities, Bogotá’s POT is a framework for rethinking and ordering urban development spatially. The POT describes the city’s geographical area, articulates a model for occupation by urban settlement, rural settlement and agriculture production, specifies long-term budgetary commitments, and identifies the population eligible to receive the benefits of the city’s development. Complementing the objectives in the Local Development Plans, the POT emphasises principles of integrity and sustainability, which are intended to bind the city’s territory and development practices together.

The normative changes that articulated the new administrative framework for Bogotá’s governance of territory and population have equipped the city with several strategic advantages. First, on a pragmatic level, the *Estatuto Orgánico de Bogotá* and the city’s POT have provided the normative and jurisdictional means to organize the use of the city’s territory and to increase rent capture. This, in turn, has invigorated the city’s Local Development Plans. The new legislative framework restructured public service and created an active network of new local councils, while larger budgets and robust processes of planning and accountability have promoted a more effective administration. This outcome is partly due the World Bank’s presence in Bogotá,¹⁰⁸ which aims to

promote the adoption of clear and internally consistent systems of local revenues and expenditures, transparent and predictable intergovernmental transfers, prudent conditions for municipal borrowing, and widely accepted financial accounting, asset management and procurement practices.¹⁰⁹

Second, the broad principles that underpin the norms of decentralised development have generated a virtuous rhetoric of economic restraint, environmental care, and progressive politics at the administrative level and, increasingly, in wider public discourse (see Image 2).¹¹⁰

¹⁰⁷ See on a general review of the Local Development Plans in terms of participatory democracy and development goals, F. Velásquez and E. González, *Encuentros con el Futuro: Cuarto Ejercicio de Planeación Participativa en Bogotá* (Colombia: Foro Nacional por Colombia, 2004). See on social investment in the Local Development Plans: “*Formar Ciudad*”, “*Por la Bogotá que Queremos*”, and “*Bogotá para Vivir Todos del Mismo Lado*”, M. A. Restrepo Medina, *Impacto Social de los Planes de Desarrollo: Análisis de la Inversión Social en Bogotá 1995-2004* (Bogotá: Ediciones Rosaristas, 2006).

¹⁰⁸ See for instance, The World Bank (2003), *supra* note 104.

¹⁰⁹ Kessides (2000), *supra* note 22, p. 11.

¹¹⁰ The leading example has been the Citizenship Culture (*Cultura Ciudadana*), programme, initially designed and implemented in the Local Development Plans during Antanas Mockus’s mayorships (1994-1997, 2001-2003). However, *Cultural Ciudadana* has become a key feature



Image 2. Symbols for citizens' self-regulation that accompanied the *Cultura Ciudadana* programme during the administrations (1994-1997, 2001-2003). Placed on street banners, public documents or the telephone directory, these symbols called for a Bogotá with interior peace, productive, united and legal. Photos taken by the author at the exhibition *Bogotá, León de Oro 1990-2006*, Museo de Bogotá (Bogotá, 30 November 2006 – 30 April 2007).¹¹¹

during the subsequent administrations and Local Development Plans. See especially, Local Development Plan, “*Formar Ciudad*” 1995-1998 (*Decreto 295*, 1995), art. 7. See also; A. Mockus, *Cultura Ciudadana, Programa contra la Violencia en Santa Fe de Bogotá, Colombia, 1995-1997* (Estudio Técnico No. SOC-120, Banco Interamericano de Desarrollo, Washington D.C., Julio 2001); A. Mockus, *Education for Learning to Live Together: Co-Existence as Harmonization of Law, Morality and Culture*, 32 *Prospects* (2002), 19-37; A. Mockus, *Anfibios Culturales y Divorcio entre Ley, Moral y Cultura*, 21 *Análisis Político* (1994), 37-48; A. Mockus, *Anfibios Culturales, Moral y Productividad*, 3 *Revista Colombiana de Psicología* (1994), 125-135.

¹¹¹ See especially on the visual work that accompanied the Culture Citizenship programme in Bogotá, M. Granados (with texts by A. Mockus, I. Chermayeff and X. Bermudez), *Carteles y Signos Gráficos Urbanos* (Bogotá: Alcaldía Mayor de Bogotá & Empresa de Teléfonos de Bogotá, 2003).

Operating as a new moral code for the city, these principles of decentralized development have been mobilised by the city's administration to construct a common conscience, such that living and working in the city constitute a contractual engagement to abide by Bogotá's ideals of integrity and sustainability. Administrative, fiscal and environmental disciplines have become linked to the active promotion of a common urban identity, and the introduction of disciplinary mechanisms that aim to establish patterns of self-government amongst Bogotá's citizens. The success of Bogotá's local leadership model, which combines progressive politics and economic governance, has become a case study for recent investigations.¹¹²

Finally, the combination of *Estatuto Orgánico de Bogotá*, the city's POT and Local Development Plans have confirmed that urban land is not simply the backdrop for economic and social activities. Rather, these legal texts represent Bogotá's urban territory as the essential platform upon which urban, regional and global development must be idealised and planned. According to Carmenza Saldías Barreneche, ex-Director of Bogotá's Planning Department, the transformed understanding of territory has allowed Bogotá successfully to pursue development, autonomy and decentralization as 'a venture for regional and global integration.'¹¹³

Perhaps the most telling sign of Bogotá's robust normative and administrative control over its territory and population is the city's *Triple A* (AAA) sovereign credit rating, which makes it the premier borrowing power in Colombia.¹¹⁴ *Triple A* is the highest rating available from international credit rating organizations, and its attainment proclaims an entity's creditworthiness and ability to borrow on international bond markets. Traditionally conceded to corporations, credit risk ratings have increasingly become the acid test of a government's political stability, territorial security, and economic sustainability.¹¹⁵ The name "sovereign credit rating" is apt, since its achievement

¹¹² See for example, G. Martin and M. Ceballos, *Bogotá: Anatomía de una Transformación: Políticas de Seguridad Ciudadana 1995-2003* (Bogotá: Editorial Pontificia Universidad Javeriana, 2004); T. N. Clark, "Transforming Political Systems and Political Culture: What Works? Lessons from Bogotá and Cities around the Globe", in Fred Lazin et al (eds.), *Local Government Reforms in Countries in Transition: A Global Perspective* (Lanham: Lexington Books, 2007), 39-54; United Nations Development Programme (2008), *supra* note 6.

¹¹³ Alcaldía Mayor de Bogotá D.C., *Revisión del Decreto 619/2000* (Bogotá: Departamento Administrativo de Planeación Distrital, 2004).

¹¹⁴ Alcaldía Mayor de Bogotá D.C., *Análisis del Estado de la Deuda Pública del Distrito Capital, Administración Central* (Bogotá: Secretaría de Hacienda Distrital, Dirección de Crédito Público, 2005), p. 36, available at:

<www.shd.gov.co/pls/portal/url/ITEM/175FF6AC86748650E040B40A14023873>, accessed 22 July 2007.

¹¹⁵ See on sovereign credit ratings, R. Cantor and F. Packer, *Sovereign Credit Ratings*, 1 Current Issues in Economics and Finance 3 (Federal Reserve Bank of New York, 1995), 1-6; D. Mehta and

marks the strength of a nation's – or, in this case, a city's – sovereign control over its affairs.

Bogotá's *Triple A* rating flags both the city's creditworthiness and international investor confidence, confirming Bogotá's overall ability to provide a secure investment environment, even though it is part of a country that is considered to be economically and politically dysfunctional. Fulfilling international expectations about the proper use and operation of sovereignty within a global economy, Bogotá has managed to obtain sovereign recognition from international financial institutions and private investors, who distinguish its territory from Colombia's more problematic market and social landscape.

It is important to note, however, that Bogotá's increasing power does not entail a reduction of Colombia's sovereignty. What can be perceived in the attainment of a *Triple A* sovereign credit rating is the use of "sovereignty" as a mystical referent. Sovereignty is brought to mind without the classical connotations of combative relations between nation-states. Rather, sovereignty is presented as a governance capacity, materialized in spatial and classificatory practices, that holds together a spatial unit in which territory and population are enhanced and empowered to receive global economic flows. Bogotá in this context has simply reframed Colombia's President Álvaro Uribe's (2002-2006, 2006-2010) claims that 'the state is the most important private enterprise' and 'the public is like a universe of shareholders' within the context of its municipality.¹¹⁶

It is now possible to see how Bogotá has come to speak the language that was previously used only by the state. In official reports, Bogotá's administrators claim that they will establish 'pacts and alliances' with other territorial entities in order to maintain geographical and regional competitiveness.¹¹⁷ Furthermore, Bogotá regards itself as part of regional and international organizations, and belongs to a network of cities that aim to position localities as global actors.¹¹⁸ Bogotá redefines itself by constructing its spatiality with other cities, regions, national jurisdictions, and international financial institutions. The city, or at least the Legal City, has actively become a building block of a new global order.¹¹⁹ The

H. G. Fung, *International Bank Management* (Malden, MA: Blackwell Publ., 2004), pp. 206-244; B. Scholtens, "Country Risk Analysis: Principles, Practices and Policies", in M. Frenkel, A. Karmann and B. Scholtens (eds.), *Sovereign Risk and Financial Crisis* (Berlin: Springer, 2004), 3-27.

¹¹⁶ See especially, "Extreme Investing: Inside Colombia", *Business Week*, May 28, 2007, available at: <http://www.businessweek.com/magazine/content/07_22/b4036001.htm>, accessed 14 February 2009.

¹¹⁷ See especially, Alcaldía Mayor de Bogotá D.C., *Desarrollo Social de Bogotá* (No. 1) (Bogotá: Secretaría de Hacienda Distrital, Dirección de Estudios Económicos, 2006), p. xxiii.

¹¹⁸ Blank (2005-2006), *supra* note 72, p. 930.

¹¹⁹ A significant official response to Bogotá's new position within this new global order is the recently established Department of International Relations – *Dirección Distrital de Relaciones*

territorial entity that emerged from Bogotá's *Estatuto Orgánico*, the POT and regulated by Local Development Plans has been thus financially and administratively capable of superseding its initially normative character. In the next two sections, I turn to the examples that I have selected to illustrate the way in which this new spatial and material reality of Bogotá has been based on furthering state-based practices of classification, demarcation and disciplining of territory and population.

B. Mapping Development

As a modern technology of jurisdiction creation, mapping transforms social place into a commensurable and manageable spatial unit that is amenable to sovereign control and management.¹²⁰ Maps allow the legal space of a jurisdiction to be imposed upon a physical space, inserting social reality into an enabling juridical framework, while they shift attention away from their own constructed nature.¹²¹ This has given maps a particular place in the history of the construction of modern states because they produce both filial images and concrete administrative spaces to control and regulate.¹²² In the context of local development, the mapping of a territory – with its corresponding technology, spatial planning – erects over the local populace a verifiable space where development can be pursued and evaluated. Borrowing from cartography's state-based history, mapping the local is

Internacionales – within the administrative organization of Bogotá. The main objective of this department is 'to design and promote policies and strategies to strength further Bogotá's international relations with other cities, states and international organizations'. See especially, *Acuerdo* 163 (2008), art. 4. Another example is *Acuerdo* 147 (2005) which confirmed Bogotá's membership to the following regional organizations and networks formed by cities: *Centro Iberoamericano de Desarrollo Estratégico Urbano* (CIDEU) <www.cideu.org/>; *Unión de Ciudades Capitales Iberoamericanas* (UCCI) <www.munimadrid.es/ucc/>; *Asociación América-Europa de Regiones y Ciudades* (AERYC) <<http://www.aeryc.org/ingles/objetivos.htm>>. According to the same act, *Acuerdo* 147 (2005), Bogotá became a member of *The World Organization of United Cities and Local Governments* (UCLG) <<http://www.cities-localgovernments.org/>>. The mission of UCLG is: 'To be the united voice and world advocate of democratic local self-government, promoting its values, objectives and interests, through cooperation between local governments, and within the wider international community', available at <<http://www.cities-localgovernments.org/uclg/index.asp?pag=template.asp&L=EN&ID=6>>, accessed 12 July 2007.

¹²⁰ S. Dorsett, "Mapping Territories", in S. Dorsett and S. McVeigh (eds.), *Jurisprudence of Jurisdiction* (Oxford: Routledge-Cavendish, 2007), p. 137.

¹²¹ C. Jacob, *The Sovereign Map: Theoretical Approaches in Cartography throughout History* (Chicago: University of Chicago Press, 2006), p. 11.

¹²² See especially, J. C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998); R. T. Ford, *Law's Territory (A History of Jurisdiction)*, 97 Michigan Law Review 4 (1999), 870.

the logical extension of the state's decentralization as a nation-building strategy. Through mapping, local territory and population are made more amenable to economic, environmental and social planning, while development's territorial arrangement is simultaneously established as the natural order of things. Facilitated by digital technology, and with a smaller territory and population to care for, the mapping of local space and life becomes more precise and integrated with the multiple faces of development: for instance, the local map can be integrated with the distribution of population and local economic activity, and this map can be superimposed on present and future infrastructure facilities or environmentally protected areas (see Image 3). Through this exercise, direct contact between the sovereign power and citizens is minimized by the technical nature of maps – which intervenes from a distance – while the outcomes of development can be amplified.

Maps, especially cadastral maps, are used to regulate taxation and public expenditure according to average household incomes, land value and political leverage.¹²³ They ensure that the city is strategically present in each of its subjects and over its population as a whole.¹²⁴ They coordinate the achievement of a sovereign spatial economy in Bogotá. The capacity of the city to provide better services, such as security, education or public utilities, across its territory is connected with the capacity of the city to tax its population effectively – a population whose members are more inclined to contribute to the city's development costs once they start to receive the city's services according to their needs, uses and contributions. An example of this is that, alongside Bogotá's improvement in its development standards, the city has increased its collection of taxes from the equivalent of 200 million US dollars in the 1990s to 750 million in 2003. Maps in this process play a crucial role both to identify taxpayers and to coordinate the strategic redistribution of benefits within the Legal City's perimeter. What comes after is a virtuous circle of taxation and investment, political representation and sovereign presence.¹²⁵

¹²³ The idea that maps assist Bogotá's administration to decide on the appropriate level of investment and taxation according to household income, land value and political leverage has been confirmed by the author during informal conversations with public servants of Bogotá's departments with development roles.

¹²⁴ Compare with, R. J. P. Kain and E. Baigent, *The Cadastral Map in the Service of the State: A History of Property Mapping* (Chicago: University of Chicago Press, 1992).

¹²⁵ A. Mockus, *Creating Civic Agency and "Cultural Change"* (Paper presented at Moving Beyond Armed Actors, The Challenges for Civil Society in Colombia, Programme on Nonviolent Sanctions and Cultural Survival (PONSACS), Weatherhead Center for International Affairs (WCFIA), Harvard University, February 20-21, 2004), pp. 10-11, available at: <<http://www.wcfia.harvard.edu/ponsacs/seminars/colombiaconferencepapers/default.asp>>, 27 July 2007.

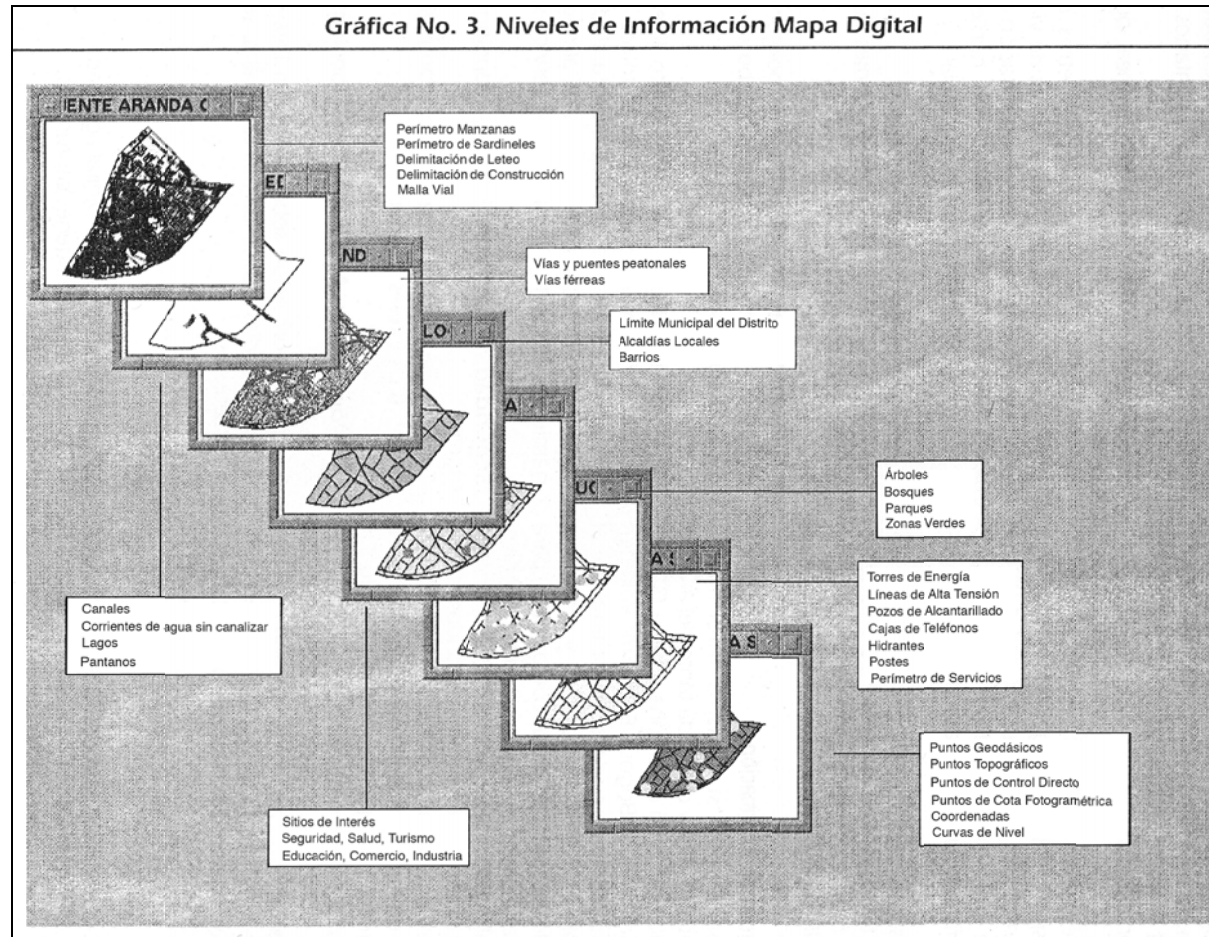


Image 3. The graphic shows the different levels of information presented in the digital map of Bogotá: from basic geographical characteristics to the city's administrative division, urban facilities, property titles, and the city's socio-economic distribution. Alcaldía Mayor de Bogotá D.C., *Mapa Digital* (Bogotá: Departamento Administrativo de Catastro Distrital, 1996), p. 26.

On the other hand, the maps that accompany the normative body of Bogotá's POT and Local Development Plans retain the memory of the city's socio-political construction as a uniform, manageable, and self-sustaining territorial unit. The maps are a product of the marriage between decentralized development principles and the law, and their legal character makes them the centre of the city's development practices. The ceaseless process of drawing and revising maps of the city systematises the physical urban space according to legally enacted development objectives and a jurisdictional perimeter. Their capacity to abstract territory and population strengthen administrative action, turning these components of the living city into reciprocal variables of development. In official publications, title disputes, urban policy manuals and neighbourhood legalization processes, these maps appear as reminders of where Bogotá is, and what it must look like.

The maps included in Bogotá's POT are thus a particular visual representation of the normative organization of development within the city's legal perimeter. Through these maps, Bogotá's cartography is legally codified and reality is reorganized according to the aims and conditions of development. They classify and situate the city's residents within an urban perimeter and then assign them to human development units (*Unidades de Planeación Zonal*). They pinpoint the locations of present and future urban infrastructure (facilities, public spaces, transport lines), and dissect the terrain into natural environment, human settlements, public spaces, country lands and no-residential zones.¹²⁶ Decisions about public projects and their beneficiaries are made on the technical specifications of the maps and the spatial and normative reality that they portray (see Image 4). Over these maps, public officers, private investors and public-private partnerships negotiate decisions about where to invest and how development will take place within the life of the city. Maps are, as a result, an avenue to communicate and to profit from the official vision of the city as a uniform, manageable, and self-sustaining territorial unit.

For instance, Image 5 presents a map of the city as depicted in an advertising campaign by a private developer of residential housing. The map recycles the image of Bogotá that is promoted in the city's POT and Local Development Plans: a city that is well-defined by an environmental green belt and not by illegal neighbourhoods or eroded lands, that is uniformly developed across its internal area and that is interconnected through the city's public transport system, its improved network of roads and the city's airport. Moreover, the map de-places Bogotá from its location within Colombia, removing the city from the problematic nation-state that it belongs to.

¹²⁶ See especially, *Decreto* 619 (2000), art. 103; *Decreto* 190 (2004), art. 56. Zonification in Bogotá had been applied since *Acuerdo* 21 (1944). This initial norm of zonification was modified several times (1951, 1961, 1967, 1974, 1979, 1990).

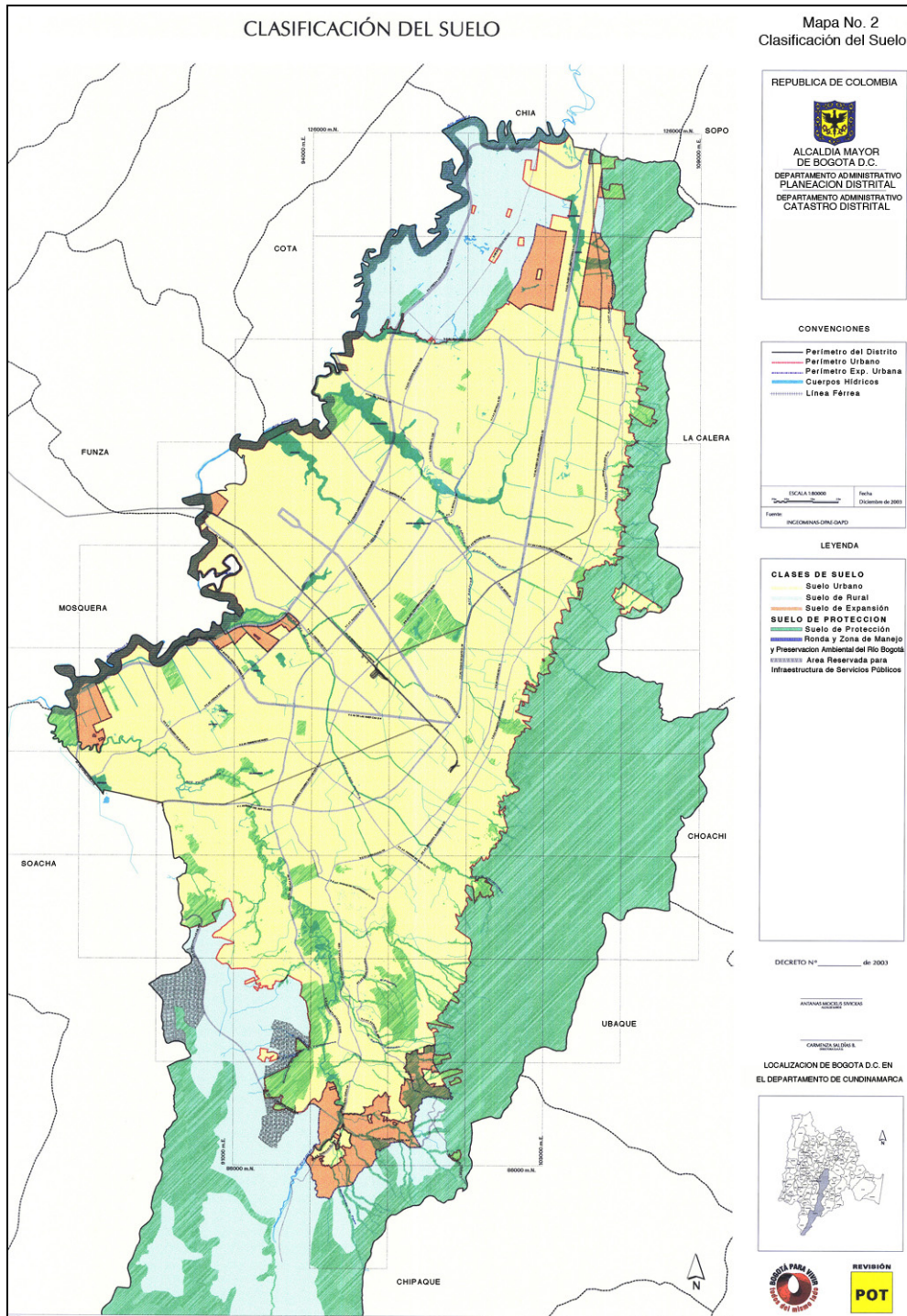


Image 4. Bogotá's official land use map. Bogotá's POT, *Decreto Distrital 190* (2004).

Mapa de Bogotá

1 Vía Capital - 2 Km al noroeste Centro Chico tel.: 661.34.67 / 85 / 69 - Cal. 314.442.90.19

2 Calle 131 No. 75A - 23.000.000

3 Cal. 27 No. 97 - 10

4 Calle 147 con Cris. 63

5 En la ciudad propia En Pedileños

6 Calle 3 por No. 61C - 96

7 Carrera 118 No. 778 - 35

EN BARRANQUILLA

EN PANAMÁ

CONJUNTO GUARACÁN
Áreas de 246 y 230m²
con lotes de 1.000m²
DESDE \$880'000.000

CONJUNTO CEDRO
Áreas de 222, 225.20 y 234m²
con lotes desde 300m²
DESDE \$660'000.000

CONJUNTO ACACIA
Áreas de 222 y 225m²
con lotes desde 400m²
DESDE \$600'000.000

CONJUNTO AICARARRO
Áreas de 130 y 167m²
con lotes de 300 hasta 700m²
DESDE \$413'000.000

APARTAMENTOS
Áreas de 209 y 240m²
tel: 617.64.04 - 226.54.89
Cel: 314.411.30.15
DESDE \$632'000.000

CASAS Y APARTAMENTOS
Cotas de 112m
DESDE \$420'000.000
Alto: 66.70, 84 y 97m
tel: 233.96.22 / 24 - Cel: 314.470.22.96

APARTAMENTOS CON CLUB
Áreas de 74 y 90m²
tel: 674.42.43 - 674.73.37
Cel: 311.876.65.27
DESDE \$151'000.000

APARTAMENTOS CON CLUB
Áreas de 70, 83 y 90m²
Sede de información:
C.C. Maravilla, Local 292
Call Center: 643 42 00

APARTAMENTOS CON CLUB
Áreas de 72 y 84m²
tel: 420.26.82 - 262.07.49
Cel: 313.488.08.53
DESDE \$130'000.000

APARTAMENTOS CON CLUB
Áreas de 70 y 81m²
tel: 431.97.73 - 431.99.54
Cel: 314.411.08.92
DESDE \$123'000.000

APARTAMENTOS
Áreas de 170, 200 y 225m²
tel: 05.373.02.55 - Cel: 312.384.00.73
DESDE \$370'000.000

APARTAMENTOS
Áreas de 70, 83 y 90m²
tel: Bogotá (01) 643.42.00
tel: Panamá (007) 2202011 - Cel: 87907272
DESDE US\$64.200

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Image 5. Map by private housing developer Amarilo, published in the commercial magazine: *Avianca en Revista* (September 2009). The map has been also reproduced in Amarilo's marketing magazine, *Amarilo Magazine*, No. 18 (July 2009), pp. 8-9, and the company's website: <<http://www.amarilo.com>>, accessed 19 October 2009.

Following official discourse, the private developer's map represents the jurisdiction of Bogotá in its best possible light: a developed city to be desired by (present and future) residents and investors. In this hyperreal illustration of the city, the benefits of promoting the Legal City – established in official development prescriptions – are organized for the developers' profit, and for the circulation of capital and labour across the city, its space and its frontiers. The reality that lies beyond the private developer's map is elided by the drive towards a new image of the city and what can be obtained from it. In this sense, the motto used by the private developer in the map – “A space only exists when someone builds it” (*Un espacio solo existe cuando alguien lo crea*) – is peculiarly apt. The map conveys the exercise of sovereign power that the model of decentralized development aspires to: a firm sovereign control over territory and population that is nonetheless compatible with a flexible approach towards market forces and its disciplines.

For Bogotá's officials, residents and investors, maps mark where the Legal City finishes, establishing who is within and who is beyond of the city's development reach. The same maps also find their way into the life of the Illegal City and its residents, where they remind these subjects what the city looks like, how it excludes them and how they might ultimately be included. For illegal neighbourhoods, a relationship with Bogotá's planning agencies implies a discussion that focusses on the topographic coordinates of each illegal house according to Bogotá's official cartography, the legal instruments that signal their illegality and a precise procedural path for the neighbourhood's illegal citizens to become legitimate subjects – how they might become lawful in front of Bogotá's administration. This demonstrates how the cartography of development actualises an administrative architecture over the Illegal City such that a continuous network of power connects the vigilance of the sovereign – through administrators, planners and cartographers – to the meticulous regulation of territory and conduct.¹²⁷

While neighbourhoods are still illegal, and with no expectation to be legalized in the near future, maps confirm for the residents their exclusion and the reasons why they do not have an effective right to receive, for example, a proper water service from the city. From the perspective of illegal residents, the maps are thus a platform to demonstrate their exclusion and vulnerability, and to request formal integration. The project of inclusion is, in this way, formulated by the cartographic grammar of the Legal City, such that the citizens of these neighbourhoods construct their own maps to rectify the gaps of the official versions, carrying with them both the official and their own version of maps to

¹²⁷ T. Osborne and N. Rose, *Governing Cities: Notes on the Spatialisation of Virtue*, 17 Environment and Planning D: Society and Space (1999), 747.

show how they have been disappeared from official readings of the city and to testify that their neighbourhoods do indeed exist.

In my fieldwork visits to illegal neighbourhoods on the periphery of Bogotá, community leaders have shown me their own maps alongside official maps, not only to demonstrate the condition of their exclusion, but also their readiness to be included on the city's own cartographic terms (see Image 6). Even as official maps exclude them, actively ignoring the existence of their neighbourhoods, the residents of illegal neighbourhoods pre-emptively map themselves according to the city's legal prescriptions in order to be ready for their legalization.



Image 6. A map made by residents of an illegal neighbourhood on the periphery of Bogotá. Following official cartographic standards, this community map identifies the location of the neighbourhood in relation to the surrounding city, the number of land blocks in the neighbourhood, which of them are empty, which ones have been built, and which are built and occupied. The map also shows the zonification of the neighbourhood following official categories: environmentally reserved zones, high risk of landslides zones, and zones adequate for human habitation. Finally, the map identifies areas of public space and urban equipment that has been built by the community. Photo taken by the author (11 August 2009).

In conclusion, the mapping process that determines the boundaries between the Legal and the Illegal Cities embodies the paradoxical nature of the relationship between sovereign power and Bogotá's urban revolution. On the one hand, the maps' depiction of the city's jurisdiction might be read as an innocuous tool to visualize the spatial location and distribution of Bogotá's territory: a simple aid to identify land uses and the implementation of infrastructure projects. However, urban planning maps also consolidate an image of the official Bogotá for the

city's decision-makers, its residents and its investors. Any remnant sense of the arbitrariness that sustains the determination of the city's development boundaries – and in particular the sovereign decision of where the Legal City finishes and the Illegal City begins – is supplanted by a drastic graphical reduction that clearly exists and must be maintained for the benefit and welfare of *Bogotanos*. Social reality is not magically disappeared: rather, it is classified, organized and ultimately buried under the layers of technical official cartographies that seek to promote development within the perimeter of the Legal City. Bogotá's development maps, as a result, do not solely mark a territory. They frame spaces and urban life according to the laws and policies that generate development and promote the city within a new global system of sovereignty.

Bogotá's development maps can be seen as the pinnacle texts in which development processes take place, and where the decision about who will be a beneficiary and participant in development projects is ultimately taken. These maps mark the geographical and demographical area of the city that has succeeded in the consolidation of sovereignty control over territory and population. For the excluded, the same maps constitute a material sign of their exclusion that can be contested, fought over and discussed. Supported by the power of the maps, the initial arbitrariness of fracturing the territory into a Legal and an Illegal City becomes a compelling instrument that defines, protects, and occasionally enlarges the sovereign body of Bogotá.

C. Maintaining a Sovereign Spatial Economy

For many Colombians, Bogotá's illegal neighbourhoods are an important stage in their migration to the Legal City. The process of neighbourhood legalization constitutes a kind of pilgrimage that is regulated by development objectives, a juncture where the law that sustains Bogotá's success and the individual's desire for membership to the Legal City coincide, and where the pace and the obligations of inclusion are determined.¹²⁸ Trading on an illegal community's anticipation of the Legal City's benefits, the legalization process promotes the order that is latent

¹²⁸ Bogotá's Local Development Plan "*Bogotá Positiva: Para Vivir Mejor*" 2008-2012, *Acuerdo* 308 (2008), article 32: *Metas de la Ciudad*, regularizes explicitly this pilgrimage. The Plan identifies (i) 104 illegal neighbourhoods on the fringes of the city; (ii) 458 neighbourhoods that are in the process of legalization and, as a result, waiting for the formalization and provision of basic public services and infrastructure from Bogotá; and (iii) 1313 formerly illegal neighbourhoods pending an integral upgrade of their infrastructure and services. According to the aims of the Plan and its financial scope: (i) 73 of the 104 illegal neighbourhoods will begin the process of legalization in the period 2008-2012; (ii) only 51 of the 458 neighbourhoods in the process of legalization will start receiving formal provision of basic services and infrastructure; and (iii) 150 of the formerly 1313 illegal neighbourhoods will be integrally upgraded.

in Bogotá's development plans and calibrated through the development maps of the city. This occurs in the course of a legal process that is designed to endow the future citizen with a very specific set of rights and obligations derived from his or her reception into the Legal City, a process highly regulated by a body of particular norms and a specialized network of local departments.¹²⁹ Importantly, neighbourhood legalization processes have been also recently coupled with large programmes of urban upgrade.

The *Desmarginalización* programme was established during Enrique Peñalosa's mayoral term (1998-2001) with the twin objectives of consolidating the process of neighbourhood legalization and improving living conditions in Bogotá's newly legalized neighbourhoods.¹³⁰ The US\$522 million allocated to the programme was used to legalize and upgrade the urban conditions within these neighbourhoods, which were home to approximately 620,000 inhabitants. *Desmarginalización* financed the construction of infrastructure, promoted projects to increase the use of existing urban facilities (for example, to link neighbourhoods to Bogotá's primary public transport system *Transmilenio*), and relocated families living in high-risk areas to alternative housing when possible.¹³¹ During the second administration of Antanas Mockus (2001-2004), *Desmarginalización* was succeeded by *Mejoramiento Integral de Barrios* (Integral Neighbourhood Improvement), a similar programme that has been continued and expanded during the administrations of Lucho Garzón (2004-2008) and Samuel Moreno (2008-2012).¹³² Like *Desmarginalización*, *Mejoramiento*

¹²⁹ The offices directly in charge of neighbourhood legalization in Bogotá are *Subdirección de Legalización y Regularización de Barrios*, which is part of Bogotá's Habitat Department (*Secretaría Distrital del Hábitat*) and *Dirección de Legalización de Barrios*, which is part of Bogotá's Planning Department (*Secretaría Distrital de Planeación*). The office in the Habitat Department is in charge of managing the process of legalization, while the office in the Planning Department is in charge of taking final decisions in the process. Even though these two offices are directly responsible for neighbourhood legalization, they coordinate their actions and take common decisions in a collective body: *Comité Técnico de Legalización*. The *Comité* has a legal character and it is formed by the offices of Bogotá's Habitat and Planning Departments in charge of legalization, and their peers in Bogotá's Department of Environment, Department of Risk Control, offices related to public housing (*Metrovivienda* and *Caja de Vivienda Popular*), and the water, electricity and gas companies. The *Cómite* convenes once a month to review the legalization viability of illegal neighbourhoods and to review the stage of the legalization process of illegal neighbourhoods that the *Comité* has already decided to include in the Legal City. See especially, Bogotá, *Decreto Distrital* 367 (2005), art. 5.

¹³⁰ Alcaldía Mayor de Bogotá D.C., *Programa Desmarginalización de Barrios. Informe de Gestión 1998-2000* (Bogotá: Alcaldía Mayor de Bogotá D.C., 2000).

¹³¹ Rueda García and Rueda Sinisterra (2005), *supra* note 27, p. 67.

¹³² See especially, Alcaldía Mayor de Bogotá D.C. and Kreditanstalt Für Wiederaufbau (KfW), *Proyecto de Mejoramiento Integral de Barrios SUR con Bogotá: Propuesta Actualizada de Intervención* (Bogotá: Alcaldía Mayor de Bogotá D.C., 2000). See especially on *Mejoramiento*

Integral de Barrios employs an integral developmental approach to neighbourhoods that are selected for legalization, but this is complemented by increased attention to the welfare aspects of neighbourhood legalization.¹³³ As a general strategy, *Mejoramiento Integral de Barrios* has targeted the construction of infrastructure that is likely to raise human development indices, while furthering programmes of community consultation and institutional enhancement in order to foster co-responsibility agreements that involve communities in policing the growth of the Illegal City.

Although *Desmarginalization* and *Mejoramiento Integral de Barrios* have adopted slightly different approaches to sustainable principles, they have both worked under the assumption that neighbourhood legalization is a crucial process to regularize the city's urbanization. The purpose of the programmes has been to consolidate the legality over the urban land; both programmes have aimed to further the expansion of the Legal City and cultivate more strategic approaches to future illegal growth. In particular, the programmes combine an active interest from the city's administration to legalize informal neighbourhoods with the promotion of neighbourhood legalization as a normative and selective process. The notion of selectivity aims to communicate to present and future illegal residents that the city's administration will not legalize all existing illegal neighbourhoods, that it will only legalize illegal neighbourhoods according to the city's norms and the city's financial and administrative capacity, and that the city is committed to not having new illegal neighbourhoods established in the future. Selecting neighbourhoods for legalization protects Bogotá from excessive or precipitous incorporation of its Illegal City, but also transforms the process of legalization into a pedagogical display in which illegal subjects can learn the nature and mechanics of development in the Legal City.

Bogotá's administrations and legislative bodies have, in this way, enacted specific criteria that illegal neighbourhoods must fulfil in order to be legalized. Two important preliminary criteria regulate the neighbourhood legalization process. First, a settlement that applies to become legal (or that the district selects for legalization) must have been established before a certain date: settlements established after this deadline cannot apply to become legal until the Council of Bogotá revises the eligible timeframe. Under the *Desmarginalización* and *Mejoramiento Integral de Barrios* programmes, the cut-off date was 1996, although this has been recently extended to mid-2003.¹³⁴ Second, the geographical location of the illegal settlement must comply with the norms of land use established in Bogotá's POT. Hence, it is only possible to legalize settlements that

Integral de Barrios during Lucho Garzón administration, Bogotá, *Decreto Distrital* 367 (2005) and Samuel Moreno administration, Bogotá, *Acuerdo Distrital* 308 (2008).

¹³³ Rueda García and Rueda Sinisterra (2005), *supra* note 27, p. 67.

¹³⁴ Colombia, *Decreto* 1600 (2005), art. 57.

are in designated urban expansion or rural areas: settlements, or even sections of these settlements, within public interest areas, environmentally-protected zones or high-risk regions cannot be legalized.¹³⁵

If an illegal neighbourhood meets the initial criteria for legalization, three additional conditions regulate the neighbourhood legalization process. First, neighbourhood legalization does not imply the normalization of property titles: it is purely legalization concerned with irregular urban developments.¹³⁶ As a result, civil and criminal actions may accompany the administrative process of neighbourhood legalization.¹³⁷ Second, before a neighbourhood is legalized, it must be spatially organized according to Bogotá's urban development plans. For example, a group of illegal settlers who initiate the administrative procedure of legalization for their community must show that 25 percent of the urban area within the neighbourhood is available for public space. If this amount of public space is not available, the residents of the illegal neighbourhood must pay Bogotá's administration for the development of an equivalent area of public space in another part of the city.¹³⁸ Third, once the neighbourhood has been re-organized, city's departments in charge of the legalization process establish additional individual obligations for households to fully legalize their houses, to obtain the property title of their land, to stop building without adequate permits, to connect them to public utilities, and to commence payment of taxes.

By managing the number and quality of new legalized settlements, Bogotá's administration regulates the expansion of the Legal City. The conditions that must be met by newly legalized neighbourhoods help to maintain a sovereign spatial economy in Bogotá, as they secure a balance between growth – of both population and territory – and the city's development capacity, which is ultimately what safeguards the city's sovereign presence across its jurisdiction. In the neighbourhood legalization process, the abstract search for sovereign consolidation that drives the decentralization of development in Colombia structures the reality of the city's almost-included citizens and territory.

¹³⁵ See especially on how environmental sustainability has been used to support the removal of neighbourhoods in Bogotá's Illegal City, M. Everett, *The Ghost in the Machine: Agency in "Post-structural" Critiques of Development*, 70 *Anthropological Quarterly* 3 (1997), 137-151.

¹³⁶ See especially, Colombian Urban Reform Act, *Ley 9* (1989).

¹³⁷ For instance, civil actions can be used by residents – during or after the legalization process – to access the property title of the land. Criminal and civil actions can be also started against residents by legitimate owners to get their property back. Finally, criminal actions can be started by legitimate owners and the city's administration against the people that initially organized the establishment of the informal neighbourhood – who are known as *urbanizadores piratas* in Colombia. See especially, Muñoz Neira (2004), *supra* note 27.

¹³⁸ To guarantee this obligation, the office in charge of neighbourhood legalization in Bogotá requires that community members sign a public document in which they agree to observe this rule. The sum is paid to the *Fondo Compensatorio de Cesiones Públicas para Parques y Equipamiento*.

Sovereignty here comprises a set of practices that order time and space, determining who should belong to the Legal City and when such inclusion becomes possible. As Gupta has observed, the temporal and spatial dimension in the performance of sovereignty is significant because it enables authorities – in this case, officials in Bogotá’s development departments in charge of legalizing neighbourhoods – to invest processes of jurisdictional crossing with a *durée*, a dimensionality in time that identifies the physical space as a regulated domain.¹³⁹ Insofar as the city assumes responsibility for nation-building and strives to solve the fragility of the state, the security of the city’s development borders and the sustainable integration of what lies beyond of them have become key elements in the material reconstruction of the state’s sovereignty.

What is remarkable, however, is that this process involves the integration of terrain that is already part of the national territory, and citizens who are already subjects of the sovereign. What occurs here is thus not the enjoyment of recognition in an emergent system of sovereign promotion within the Third World – exemplified, for instance, by Bogotá’s attainment of *Triple A* sovereign credit rating. Rather, it is an intensification of the disciplinary effects of recognition, a translation of practices that have been traditionally used by nation-states to confirm their sovereignty at an international level to a sub-national scenario. In this way, the legalization process provides a constant reminder of the benefits, as well as the obligations, of Legal City membership. Through the process, citizens on the verge of becoming legal residents are instructed about what the city has to offer and what the city will require from them. Here, the question of lawfulness, how to live a lawful life, within the confines of the Legal City and its disciplines becomes acute.

The use of maps by the city’s administration within the neighbourhood legalization process is also revealing at this point. The process of neighbourhood legalization mandates that several community meetings must be organized. Officers from Bogotá’s planning and development agencies use these meetings to inform residents about the general conditions that regulate the neighbourhood legalization process and the benefits and obligations derived from the legalization of a community’s neighbourhood. They also emphasise the need for participation by the community, which ensures that the process gains momentum and the formalities of the process can be fulfilled (e.g. that 51% of the residents of the neighbourhood approve the legalization maps). In the context of these meetings, official maps of Bogotá in which illegal neighbourhoods are not included are usually placed alongside official versions – not community versions – of the same illegal neighbourhoods (see Images 7-8).

¹³⁹ A. Gupta, “Imagining Nations”, in D. Nugent and J. Vincent (eds.), *A Companion to the Anthropology of Politics* (Oxford: Blackwell, 2007), pp. 279-280.



Image 7. The photo shows residents of an illegal neighbourhood confirming on an official map of Bogotá that their neighbourhood effectively does not exist in the official cartography of the city. Photo taken by the author during a neighbourhood legalization meeting (13 June 2009).

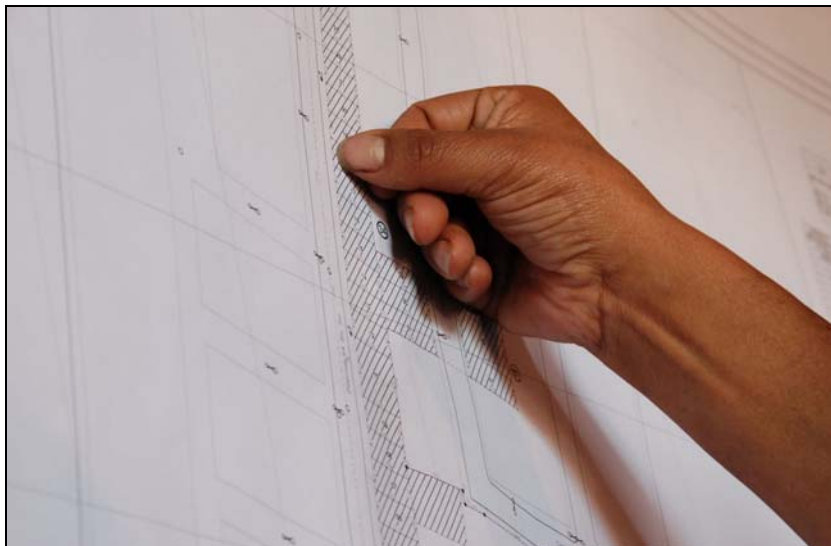


Image 8. The photo shows a resident of an illegal neighbourhood checking the location and measures of her property in the legalization map of her neighbourhood. A version of this map will be included, at the end of the legalization process, in the official map of the city. Photo taken by the author during a neighbourhood legalization meeting (19 September 2009).

The official versions of illegal neighbourhoods are maps drawn up by the administration in the context of the legalization process, and they portray the area of a neighbourhood that can be legalized and the measures of each of the individual blocks of land within this area. Residents are repeatedly asked to consult the two sets of maps, which depict their current illegality and their future outlook in the map of the city, in order to verify the accuracy of their inclusion in the city's official cartography and affirm their willingness to become part of the city. As part of the legalization process, each resident must confirm the name of their neighbourhood, the measurements of their house, the existence of facilities in the neighbourhood, the general boundaries of the neighbourhood, the amount of public land that the neighbourhood will give to the city, as well as their general consent to be regularized and included in the official map – and life – of the Legal City.

Within the process of neighbourhood legalization, maps become the place of *recognition*, where subjects negotiate themselves in relation to the city, even though the scope of this negotiation is conditioned by neighbourhood legalization norms, the legal character of the maps, and the subjects positioning as “illegal” in front of the city. For the public officers in charge of neighbourhood legalization meetings and the residents, the maps are the preferred place to confirm the resident's current condition of exclusion and the terms of their inclusion. Comparing, checking, approving these maps, and visualizing themselves as part of the city, is a vital part of the pedagogical exercise of becoming legal, and accepting the responsibilities of such a step.

It is important to note that the community's ultimate acceptance of these maps, and the obligations that come out of the legalization process, is driven by the desire of the residents to change the material and subjective conditions of their illegality. Although Bogotá lacks the capacity to provide proper social services, housing and security within the Legal City itself, expectations about the benefits of legalization fuel the desires of the residents of illegal neighbourhoods. This desire for inclusion is fostered and re-used by the administration of the city. To illustrate this point, a couple of pages from an official brochure describing the neighbourhood legalization process are shown in Images 9 and 10.¹⁴⁰

¹⁴⁰ Departamento Administrativo de Planeación Distrital, *Su Barrio Legal!!!* (Bogotá: Alcaldía Mayor de Bogotá D.C., 2006), p. 3.



Image 9. Front-cover, Departamento Administrativo de Planeación Distrital, *Su Barrio Legal!!!* (Bogotá: Alcaldía Mayor de Bogotá D.C., 2006).

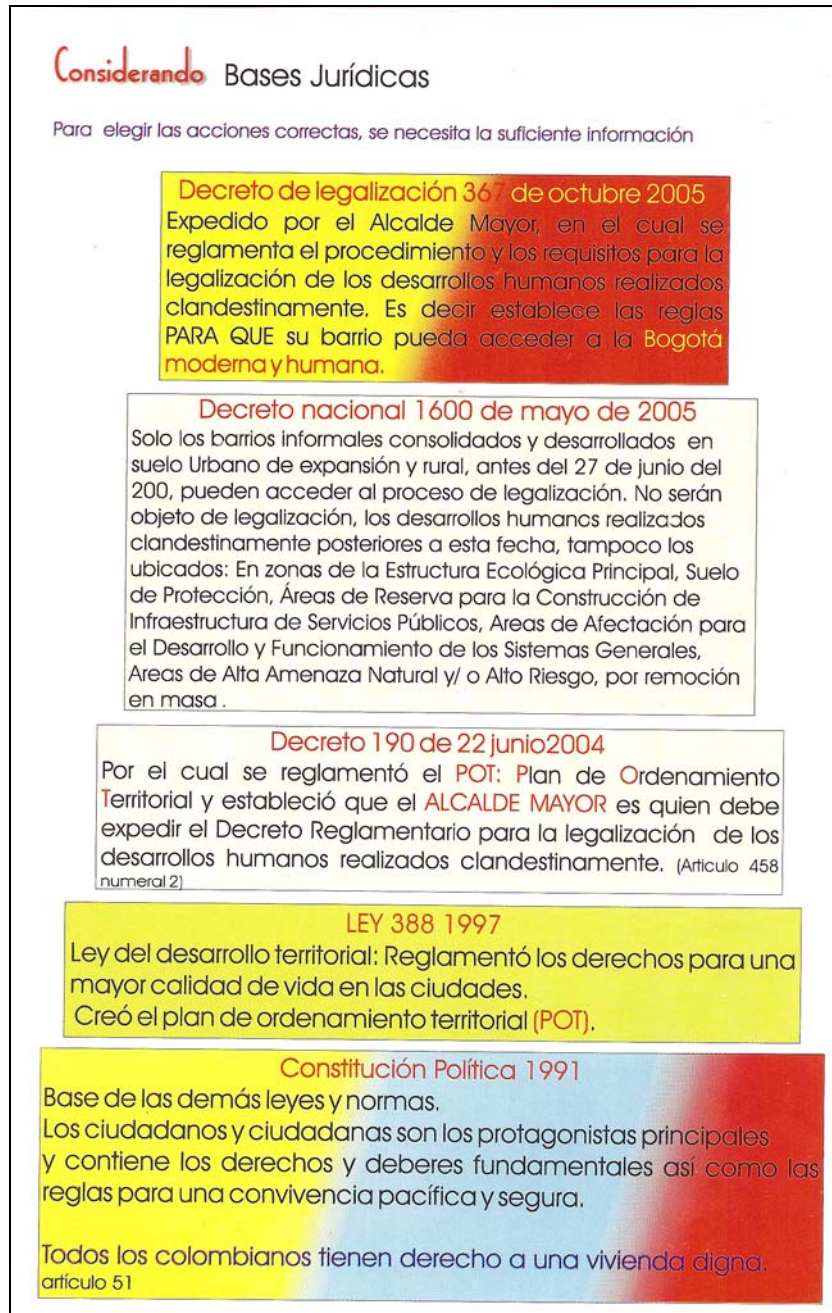


Image 10. Normative pyramid, Departamento Administrativo de Planeación Distrital, *Su Barrio Legal!!!* (Bogotá: Alcaldía Mayor de Bogotá D.C., 2006).

The brochure, which was produced by Bogotá's departments in charge of neighbourhood legalization and distributed around 2006-2007 to the residents of these communities, summarizes the conditions and steps of the legalization process through images and text. In the brochure, legalization is defined as the process to obtain access to "the modern and human Bogotá", (*Bogotá moderna y humana*). Inclusion within *Bogotá moderna y humana* is represented as a movement towards ascendance and progress, stimulating the dreams, desires and perseverance of illegal dwellers to legalize their homes.

Neighbourhood legalization is presented at the same time as a regulated and consistent administrative process, depicted in the brochure by a five-tiered normative pyramid (see Image 10). At the base of the pyramid is the right to housing, protected by article 51 of the 1991 Colombian Constitution, and an acknowledgement of the Constitution as Colombia's foundational norm where both human rights and citizens' obligations are enacted. The rules and process of legalization in Bogotá occupy the apex of the pyramid (*Decreto 367, 2005*). The intermediate stages of the pyramid consist of the national act that establishes territorial control by municipal POTs (*Ley 388, 1997*), the local act that establishes Bogotá's POT (*Decreto 190, 2004*), and the national decree that places time constraints on access to the process of legalization (*Decreto 1600, 2005*).

Confronted with this hierarchical array of norms, the illegal neighborhood and its inhabitants do not suffer from a lack of attention from the state or the absence of law. Instead, they are confronted by law's 'very powerful presence'.¹⁴¹ The normative pyramid is intended to confirm the illegality of the subject in relation to Bogotá's Legal City *vis-à-vis* Colombia's legal order. Colombia does not abandon its local (illegal) subjects, but rather assigns them to a further process of regulation by the local administration.

In the brochure, neighbourhood legalization proffers admission to *Bogotá moderna y humana* as the end of an objective process in which the subject will be vested with rights and tangible benefits, provided that she organizes her spatial and political conditions according to Bogotá's sovereign spatial economy, which is concomitant with Colombia's development order. Recognizing and locating illegal desires within a space of normative certainty, the force of law – as portrayed in the brochure – promises to rationalize the volatility of the illegal resident's claims for inclusion within the Legal City and channels them into the service of a coherent, sustainable and integral development framework. The city of Bogotá operates here as both a space of development and as a platform to foster a new kind of citizenship. Neighbourhood legalization is the transaction through

¹⁴¹ S. Silbey, "Let Them Eat Cake": *Globalization, Postmodern Colonialism, and the Possibilities of Justice*, 31 *Law and Society Review* 2 (1997), 209.

which Bogotá is able to – or aspires to be able to – redeem those living beyond its official map on the city’s own terms.¹⁴²

Bogotá’s exercise of sovereignty over its territory and the population that resides beyond its jurisdictional boundary appeals openly to the liberal theory of the limitation of sovereignty by law, or, to use a more apposite phrase, the sovereignty of law. The fact that Bogotá comes into being through law in the moment of legalization allows the city to frame the discussion about neighbourhood legalization in purely legal and rational administrative terms. Politics is disregarded, since it is considered to be dependent upon irrational and arbitrary human desires, and denies law’s apparent autonomy and its role in the achievement of a coherent sovereign presence at the local level.¹⁴³ Politics, the grammar that negotiates human desires, are subsumed by law as governance in order to ensure Bogotá’s development.

How the city manages access to potable water in neighbourhoods that are about to be legalized is a useful final example to summarize the disciplines involved in the city’s exclusion, and careful integration, of its *de facto* citizens via legal regulations. In principle, being located outside the urban perimeter implies a contractual impossibility with Bogotá’s water company, and the absence of water infrastructure is the hallmark of an illegal neighbourhood. The provision of water services has thus become a key object for regulation in the context of neighbourhood legalizations. According to *Resolución* 0194 (8 March 2007) adopted by Bogotá’s water company, access to potable water can now be provisionally provided to neighbourhoods that were completed before the 27th June 2003 (i.e. the same date that is the settlement deadline for neighbourhood legalization).¹⁴⁴ Other illegal settlements have no choice but to continue, “stealing” water from the Legal City’s aqueduct. This discrimination occurs even though the text of the same *Resolución* 0194 recognizes United Nations conventions, Colombian Constitutional norms, and jurisprudence from the Colombian Constitutional Court that establish the provision of drinking water as a fundamental human right.¹⁴⁵ Moreover, the water company admits publicly that the illicit connections made to its water pipes cause continuous dripping that provokes landslides, which in turn cause numerous deaths per year. Following the rationale of *Resolución* 0914, however, the legal presence of Bogotá’s jurisdictional boundary and the city’s commitment to the development principles of municipal integrity and sustainability prevent the water company from offering

¹⁴² See especially on development’s logic of redemption and, in general, development’s theological underpinnings from a Law and Development perspective, Beard (2007), *supra* note 20, p. 15.

¹⁴³ A. de Benoist, *What is Sovereignty?*, 116 Telos (1999), 110.

¹⁴⁴ *Resolución Acueducto de Bogotá* 0194 (2007), *supra* note 33.

¹⁴⁵ *Ibid.*

a universal service. This denial of service ensures the financial performance of the water company, which is still owned by Bogotá and constitutes the city's most valuable asset.¹⁴⁶

Maintaining the discussion in normative and purely administrative terms, the Legal City *via* its water company usufructs from marking and excluding what is beyond its official map. The open political question “why is proper potable water services unavailable in illegal neighbourhoods?” is answered with an administrative-legal response that obscures the fact that the city obtains benefits once rights are strategically regulated.¹⁴⁷ As in the case of the private developer's map that we considered earlier (Image 5), a market logic is here combined with a tight sovereign control over the city's territory and population. Law synchronizes this encounter of purposes by functioning as a de-personalized and de-politicized set of good governance standards. Scrutiny of law's role in this scenario is deflected because law acts as both the vehicle and the objective of development, especially when it is seen as part of the promotion of the rule of law.

These complications become more acute once the regulation of water provision within the Illegal City, as established in *Resolución* 0194, is considered. The *Resolución* requires that illegal neighbourhoods receiving water from Bogotá's aqueduct sign co-responsibility agreements, which engage peripheral communities to protect the newly installed infrastructure. In addition to paying for their access to water, the community is expected to exercise effective surveillance over other illegal citizens who attempt to access the official water system. If a community that is signatory to such a co-responsibility agreement fails to prevent illicit connections, then they are obliged, according to the *Resolución*, to pay damages to the water company.¹⁴⁸ These co-responsibility agreements not only seek to maintain the financial sustainability of the water company and the Legal City, but they also configure an instructive lesson in decentralised development, and the idea of what a lawful life is in this new model of nation-building. While the neighbourhood legalization process, its maps and brochures operate at a more

¹⁴⁶ Bogotá's water company, *Empresa de Acueducto y Alcantarillado de Bogotá* (EAAB), holds a financial ranking of AAA according to Fitch Ratings Colombia S.A. Its financial capacity is based on the natural monopoly of the water service over the Legal City of Bogotá and 11 neighbouring municipalities, which represent a market of more than 1.7 millions of clients (that covers more than 8 million people). By the end of 2008, the net income of the company was around USD \$110 millions. Today the company expands its business activities beyond the central region of Colombia and internationally. See especially, “Como por entre un tubo”, *Semana.com*, 2 May 2009, available at: <<http://www.semana.com/noticias-economia/como-entre-tubo/123600.aspx>>, accessed 21 October 2009.

¹⁴⁷ See especially, S. Pahuja, “Rights as Regulation: The Integration of Development and Human Rights”, in B. Morgan, *The Intersection of Rights and Regulation: New Directions in Sociolegal Scholarship* (Aldershot: Ashgate, 2007), pp. 167-191.

¹⁴⁸ *Resolución Acueducto de Bogotá* 0194 (2007), *supra* note 33, arts. 3-4.

subtle level, these co-responsibility agreements transmit a clear normative message to infringing subjects – whose “crime” is a failure to prevent other subjects from accessing a right guaranteed to them by the Constitution – about the importance of Bogotá’s integrity and sustainability in relation to the reconstruction of Colombia from the city’s peripheral margins and subjects.

As we have seen, instead of the usual sharp disjunction employed by national practices of sovereign power, the neighbourhood legalization process departs from the illegality of the subject to organize her careful inclusion around arguments of empowerment and co-responsibility. Neighbourhood legalization processes, framed in the larger projects of *Desmarginalization* and *Mejoramiento Integral de Barrios* programmes, intend to include the city’s illegal subjects through a series of reflexive exercises in which their inner selves become the final object of legalization. The legalization process and its accompanying activities aim for the germination of a new kind of citizen in those Colombians who are destined to become *Bogotanos*. At the core of neighbourhood legalization processes is an attempt to establish a harmony between the individual (who learns the importance of responsibility for her actions), the locality (newly empowered to exercise effective surveillance over its legal and illegal subjects), the region (that operates as an articulated quilt of self-sustained jurisdictions), the nation (that serves as a coordinating governance umbrella), and the globe (which turns on the shoulders of a responsive local citizenry).

D. Consequences of the New Regime of Sovereignty

The previous sections of this paper have argued that the Illegal City is an important and resilient feature of Bogotá’s urban development plans and a symptom of a new regime of sovereignty. In agency terms, the Illegal City is a response to housing needs and the search for economic engagement. At the structural level, however, its *raison d’être* is more complicated. As this paper has tried to demonstrate, unpacking the dynamics that constitute the Illegal City and the processes that regulate a coordinated inclusion of the Illegal City illustrate some of the logics behind the push to revitalize nation-building in the Third World through the decentralization of development.

The Illegal City unfolds beyond the governable space where development can take place. Its symbiotic relationship with Bogotá is embedded in the practices by which sub-national, national and supra-national units are defined and preserved, and underpins a global governance project that is articulated through the discourse of development and calibrated through legal forms and uses. The Illegal City is thus where the discourses of capitalism, human rights, democracy and security encounter each other in both their full extent and in their own

impossibility. Faced with these impossibilities, national and local law respond by establishing what fraction of these ideals can be obtained in fact. By shifting the limitations of development to the boundaries of the city, a space is created for the Legal City to exist. Through law, the Legal and the Illegal City are made to appear as a natural arrangement; essential in order to maximize results. Through law, the legal subject is connected with the global order while the illegal subject must wait. Law sets the standards of what a lawful life means in this new model of sovereignty and spatial organization.

Bogotá's Legal City can be seen as part of a global project to multiply integral and sustainable sovereign units that can profit from globalization while simultaneously solving sovereign weakness in Third World states.¹⁴⁹ The city's subjects perform their existence, and they are constituted in a sub-national political body that ensures its integrity and sustainability only when it has become, in the vocabulary of the World Bank, livable, competitive, well-managed and bankable.¹⁵⁰ Performing in a space rendered intelligible to national, regional and global flows of cultural, political and economic exchanges, the citizen becomes both the space and the subject of sovereignty. Here, democracy, human rights and the promotion of the rule of law are manifestations of a system of political representation and empowered citizenship within the confines of the corporate homeostasis of the Legal City. This is clearly unrelated to the emergence of sovereignty as collective self-determination: rather, self-determination appears as the restricted right of an identifiable minority that can take advantage of citizenship within the governable urban space.

In this way, Bogotá's territorial organization and development are, unsurprisingly, closely linked to income, class and territorial positioning.¹⁵¹ In the current paradigm of development, socio-spatial inequalities reinforce tendencies toward the fragmentation of social identity. Cohesion at the affluent end of the social structure contrasts with the multiplicity and dispersion of social groups across the less affluent parts of the Legal and Illegal City. The shift from a political economy of highly centralized states and import substitution to a new model of development in which local governments and, increasingly, private actors with public functions are crucial to the lives of the population has been effective and yet debilitating.¹⁵² Bogotá's legal and illegal citizens, no longer

¹⁴⁹ Blank (2005-2006), *supra* note 72, p. 879.

¹⁵⁰ See especially the report *Cities in Transition: World Bank Urban and Local Government Strategy*, Kessides (2000), *supra* note 22. See particularly in the report the following items, *Matrix of Strategic Vision and Actions to Support Sustainable Cities*, pp. 20-25; *Illustrative Indicators for Monitoring Urban and Local Government Performance under the New Strategy*, pp. 23-25.

¹⁵¹ See similarly, A. G. McFarlane, *Race, Space, and Place: The Geography of Economic Development*, 36 *San Diego Law Review* (1999), 295-354.

¹⁵² See generally, B. R. Roberts, *The Social Context of Citizenship in Latin America*, 20 *International Journal of Urban and Regional Research* 1 (1996), 38-65; B. R. Roberts and A.

united by grand political agendas or class alliances, must find new ways to survive using a mixed bag of individual moralities and selective co-operation approaches that allow them to navigate a terrain founded on asymmetrical power relations. As Gutiérrez observes: ‘Bogotá is not a rebel city, it is just a dangerous one.’¹⁵³

In summary, the beneficiary of current local governance discourses is not an exceptionless citizenry that includes the poor, the underclass, or the newly arrived. Rather, as Marcus and Gamboa have argued, it is the latter-day bourgeoisie, the professional middle classes, upon whom the governance of cities depends and to whom the new system of sovereignty bestows most of its benefits.¹⁵⁴ In this new scenario, three possible subjects can be identified.

First is the fully capable, legal citizen of Bogotá. This citizen is who, in addition to living in the Legal City, is himself a trained subject who can enjoy the intersections of exchange that synchronize him with corporeal, urban, regional and global fashions. For him, the new hold of sovereign power in the city is positive, not problematic, and the distancing of the city from the nation-state is reassuring. The entrance of market logics and actors that help the state to consolidate its presence across territory and population is sound and effective. He is the emblem of current urban planning discourses and practices. For him, the city works as a bi-directional valve, a crossing point that facilitates transactions that emanate from his body, pass through the municipality, the department, the region, and the national territory, finishing at the global level, and then returning on a trajectory promised by the images that accompany contemporary local development manuals in Colombia (see Image 1).

Second is the legal citizen that remains disempowered, unemployed or underemployed, or simply trapped in the everyday structural violence of the Legal City. In 2004, more than 40 percent of Bogotá’s legal population were still classified as poor, and nearly 10 percent lived in extreme poverty, the majority of whom were residents of non-consolidated areas, where the Legal City spills over into the Illegal City.¹⁵⁵ For all these citizens, the door of Bogotá’s development remains problematically open.

Portes, *Coping with the Free Market City: Collective Action in Six Latin American Cities at the End of the Twentieth Century* (Working Paper No. 05-06, The Center for Migration and Development, Princeton University, 2005).

¹⁵³ F. Gutiérrez Sanín, *La Ciudad Representada: Política y Conflicto en Bogotá* (Bogotá: TM Editores-IEPRI, 1998), p. 203.

¹⁵⁴ G. E. Marcus and A. Rivas Gamboa, “Contemporary Cities with Colonial Pasts and Global Futures: Some Aspects of the Relations between Governance, Order, and Decent, Secure Life”, in R. Bishop, J. Phillips and W. W. Yeo (eds.), *Postcolonial Urbanism: Southeast Asian Cities and Global Processes* (New York: Routledge, 2003), p. 232.

¹⁵⁵ See especially, Bogotá Local Development Plan, *Acuerdo 119* (2004), “*Bogotá Sin Indiferencia*” 2004-2008. See especially on a general assessment about Bogotá’s recent

Third is the illegal *Bogotano*. Although his daily life may be similar to that of the disadvantaged legal citizens, he is officially targeted for exclusion in order to protect the integrity and sustainability of the city. His displacement allows the Legal City to succeed and to organize his future entry into the body politic. Trapped between the sovereignties of the nation-state and Bogotá, the illegal *Bogotano* is effectively shadowed by the legal system and the very discourses of development that aim to make Bogotá efficient, governable and sustainable for its legal population. The benefits that the illegal citizen can obtain through his exclusion (e.g. occasional access to free public utilities, not paying taxes, or ignoring building regulations) must be weighed against the costs of his segregation: his peripheral location in relation to the core of the city; his location, sometimes, in the Illegal City of a much poorer neighbouring municipality, which implies a complete denial of a future legalization in Bogotá and a very low chance of being legalized or his neighbourhood properly upgraded by his official municipality; his marginal location in the market; his daily fears about insecurity and unemployment; and, most of the time, the anxieties of occupying a block of land that is at high risk of landslide or forceful evacuation by public authorities.

In the development process of multiplying governance jurisdictions and identifying them according to territorial and demographic particularities, disciplinary effects are intensified. Forces of inclusion and exclusion are generated that instruct subjects about their rights and obligations according to their jurisdictional membership. The legal citizen is brought closer to believe in and learn the truth of development, while the illegal *Bogotano* remains spatially displaced at the point of encounter between Colombia and Bogotá. Here, he is reminded about both his general constitutional rights as a Colombian (for instance, his right to potable water) and the incapacity of the state to fulfil these expectations. The illegal citizen is, in this way, warned about his legal alienation from Bogotá and the negative consequences that this fact entails for the fulfilment of his national constitutional rights by the city's administration. He must wait for the future time when he is admitted under the rules and obligations that Bogotá determines for him.

Each of these three broad categories of citizens is engaged with Bogotá's development and Colombia's new model of nation-building, its spatial organization, its benefits and its exclusionary effects. Walking over the legal limits of the city, or declaring that their material effects are indistinguishable, are not necessarily acts that result from structural blindness or deliberate rebellion. Instead, they may simply involve an acknowledgment of the arbitrariness of these borders and the saturation of disciplinary practices that sustain the city as a governable space. As Richard Ford has argued, jurisdictional borders 'are both

development and the persistence, and increase, of poverty in the city, Gilbert and Garcés (2008), *supra* note 3.

absolutely compelling and hopelessly arbitrary': on the one hand, borders respond to a sovereign spatial economy that maintains the governable space that is necessary for disciplining subjects within and beyond its jurisdiction; on the other hand, these same borders are energized by a will to sovereign power that in itself remains imperceptible and erratic.¹⁵⁶ These characteristics of sovereign power seem today more compelling, once we reflect upon the current triangulation between the recovery of the nation-building project through local development, the highly technical management of population and territorial affairs by local governments, their discourses and laws, and the increasing role of market forces and logics in the construction of the public.

IV. CONCLUSIONS

Bogotá's successful development and its power to exclude the Illegal City from its development targets should be read as a response to the perception that nation states in the Third World are oversized, unsustainable and unevenly developed jurisdictions that cannot effectively intervene in the economy in favour of development objectives, nor maintain a proper presence over their territory and population. The city's control over its borders and the consequent exclusionary nature of its development achievements reflect the search for a sovereign spatial economy by Colombian municipalities. Functioning analogously to national frontiers or city walls of former times, the city's development statutes and its planning borders foster the careful administration of territory and population, reproducing nation-building logics within a local jurisdiction.

Bogotá's effective use of Colombia's current legal framework for development – a claim that cannot be made by other municipal administrations in Colombia – highlights the ambiguities sustaining the international move from state-based to municipality-based development. The displacement of the Illegal City demonstrates the partiality of a new global regime of sovereignty that seeks increasingly smaller, more accountable sub-national administrative units.

Bogotá's experience does not entail a reduction of Colombia's sovereignty, but rather represents a multiplication of the opportunities for population disciplining. Here, sovereignty is invoked without the classical connotations of combative relations between nation-states. Instead, it is presented as a set of practices that binds together a spatial unit in which territory and population are enhanced and empowered to receive global economic flows. Bogotá's peculiar skill in mastering a sovereign spatial economy thus resides in the city's capacity to maintain a corporate geography, the Legal City, in antagonistic co-existence

¹⁵⁶ Ford (1999), *supra* note 122, p. 850.

with the Illegal City. This is a relation by exception: the Illegal City is a place where development, in its official guises, must not reach, and Bogotá's success depends upon this exclusion.¹⁵⁷

The preceding discussion has demonstrated that this relationship is not incidental or foreign to development. Binary constructions, such as north/south, citizen/alien, legal/illegal and developed/underdeveloped, are familiar to development discourses. The peculiar novelty in the case of Bogotá is how successive recent administrations have harnessed and enhanced the disciplinary outcomes of these binaries at the local level in order to successfully develop Bogotá's Legal City and manage the integration of its illegal twin. This illustrates how global governance as a deterritorialized historical phenomenon is a chimerical presumption that supposes international relations to have moved beyond the Westphalian model of state politics. On the contrary, the international system of sovereignty described in this paper has as one of its main features an intensification of the territorialisation of governance. This occurs due to the increasing coordination between spatial technologies, legal norms, and social managerial discourses, an encounter that is adumbrated in the use of maps in Bogotá's development. In the coupling of space and governance, there is an entrenchment of politics as territorial calculation, an effort to determine the space that surrounds us.¹⁵⁸ The current trend of decentralizing development gives some clear signals of how this territorial calculation may triumph at the cost of abandoning the nation-state as a broader political platform.

The argument advanced here demonstrates that although the construction of territorial "walls" brings exclusion *per se*, concepts such as decentralization, integral planning and sustainable development, supported by spatial planning technologies and bureaucratic processes of population management, continue to promise that each wall, each limit, will bring a new liberty.¹⁵⁹ Development norms, interventions, and institutions need to be scrutinized from their geographical components in order to see how development based on the multiplication of jurisdictional boundaries inevitably involves demarcation, exclusion and control. The urge to multiply governable spaces where sovereign power is effectively present is inseparable from the corresponding multiplication of boundaries and levels of governance. The construction of limits can ensure political compliance, productivity and membership, but it also presupposes the creation of others who must be colonized, instructed and, finally, conditionally accepted according to development's ambitions. If the purpose is to re-politicise the analysis of these consequences, an initial step is to hold to account the

¹⁵⁷ Agamben (1995), *supra* note 35, p. 19.

¹⁵⁸ S. Elden, *Missing the Point: Globalization, Deterritorialization and the Space of the World*, 30 *Transactions of the Institute of British Geographers* 1 (2005), p. 8.

¹⁵⁹ M. Walzer, *Liberalism and the Art of Separation*, 12 *Political Theory* 3 (1984), 315-330.

allegedly innocuous nature of the geographical artefacts and imaginaries that underpin Law and Development interventions in the Third World.¹⁶⁰

While this paper has mainly described Bogotá's development as an irresistible and coordinated exercise, this process suffers from the same anxieties as any other exercise of authority. Bogotá and *Bogotanos*, those within and those beyond its map, are continually created by specific practices to play different roles within larger processes of political legitimation, economic production and cultural revision, some of which I described in this paper. Nevertheless, it remains to study in more detail how Bogotá's subjects, within and beyond its official map, subvert such constructions in the private space of the self that is a precondition for the contemporary exercise of sovereign power. These stories, however, must be told in more detail at a later opportunity.

The research agenda ahead is extensive. Apart from a detailed assessment of agency in the case of Bogotá, further examinations of the theoretical ideas presented in this paper would be useful. The relations that I have sketched between nation-building and development, the transformations of the state and its power through the delegation of responsibilities to local governments and the welcoming of market forces, actors and logics, and the decentralization of development as an expression of a new model of sovereignty all require critical evaluation. Additional studies of decentralization as a discourse are also necessary. They can further our understanding of how decentralization as a process of territorial control and disciplining is presented, the power/knowledge dynamics that sustain it, how local actors embrace the discourse to consolidate their position, and how others, especially at the national level, reject decentralization in order to reclaim their role as superior authorities. More straightforward would be a comparative analysis of other cities and states following some of the arguments presented in this paper. As well as examples recognized for their development success, it would be also instructive to analyse local histories where success has not been achieved: what are the consequences of failure in the decentralized model of development? How does the unsuccessful municipality relate to the state and the international, and how it is disciplined? Comparative studies would clarify the mechanics of exclusion in different scenarios, the broader logics that underpin contemporary development rhetoric and its norms, and also illuminate the tension between the increasingly technical management of population and territorial affairs by local governments, the apolitical appearance of this new style of governance and its excessive reliance on the law. These possible avenues for future research pose important questions for the millions that have been re-territorialized into local jurisdictions. This paper has outlined the parameters of urban experience for some of those who have been

¹⁶⁰ Blomley (1994), *supra* note 87, p. xii.

brought closer to an allegedly post-national moment – an apparent historical turning point in which the spaces and forms where we have organized our modern selves and our politics are called into question.

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