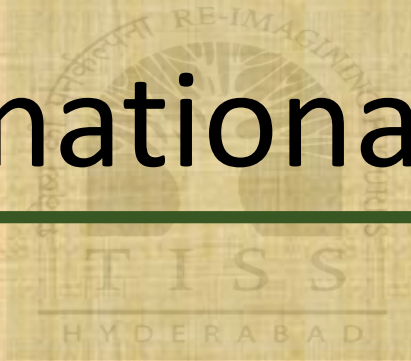


Cities and Inter(national) Law



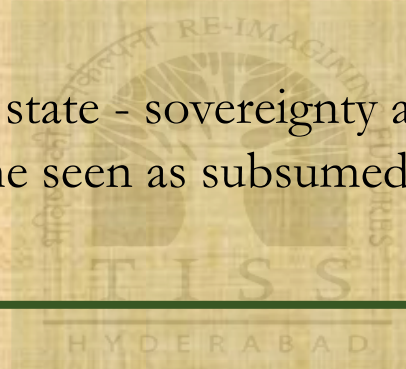
The City and the World

- **The emergence of cities in the International Order is propelled by the idea:**
- Economic efficiency and development that supposedly comes with decentralization and local power.
- Localities as instruments for achieving community empowerment and pluralism.
- Local governments as important vehicles for spreading democracy throughout the world

Actual Forces that are making Cities Important Actors

Globalisation:

End of Classical Sovereignty (Westphalian state - sovereignty as a single undivided notion + growth of the centralized national state + Cities became seen as subsumed under the state)



LEGAL STATUS IN INTERNATIONAL LAW

- **Local governments have no legal personality in formal international law.**
 - The founding principle of international law is that states are sovereign within their territory and that international law is a self-imposed legal system to which states have to consent.
 - State should be given the liberty to internally organize themselves
 - Efficient international regime depends on a limited and finite number of legally recognized international persons.

- **But if the attitude of international law towards local governments is so clearly biased and dismissive, how is it that localities have become, de facto, such important actors in world politics, culture, and economics**

I: Localities become bearers of international rights, duties, and powers.

Although local governments' obligations stem from those of the state, they are those who often carry the burden of such duties and thus become de facto parties to these covenants

For Instance:

Global development regime:

- United Nations, the World Bank, the European Union (“EU”), and other international and transnational institutions are beginning to view local governments as vehicles for the advancement of policies on a global scale
 - SDG 11, 16, and 17 talk about urban development through cities talk
 - In 2010, the City of Rio de Janeiro received a loan directly from the World Bank
 - Cities have continued to form treaties of friendship and business across the world (Hyderabad and Maryland)
 - Cities are being influenced by the monetary and fiscal policies of the World Bank and the International Monetary Fund (IMF). They are being subjected to development and planning schemes heralded by global institutions

II: Localities Becoming Objects of Global, International, and Transnational Regulation

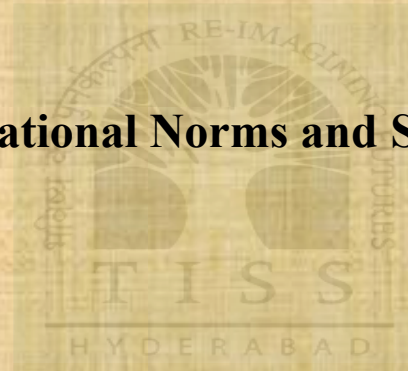
For Instance

- Direct and indirect foreign investment in cities;
- The influx of foreign workers into cities
- Business relations between cities of different countries;

III: Localities Becoming Enforcers of International Norms and Standards (Ideas and Practice)

For Instance

International human rights groups, international labor associations, transnational environmentalist groups, and other global civil society movements have intense interests—not financial, but rather moral and ideological



As a Result

- Political and legal theory previously conceptualized two dominant **legal pairs**—World-State (international law and policy) and State- Localities (national-local government law and policy)—and the two pairs stood detached from one another and had no significant legal bearing on each other.
 - Now
- **A novel trinity: World-State-Locality.**
- Each of the actors develops legal relations with the two remaining ones, while changing its previous relationships.

The Indian Case

- Nothing in the articles introduced into the Constitution under the 74th Amendment (or for that matter, the 73rd Amendment) mandates that ULBs should enjoy certain powers at all costs.
- Articles 243W and 243X do not mandate that the state legislature has to bestow lawmaking or taxing powers upon the ULBs.
- They are, as the Supreme Court put it in *Shanti G Patel v State of Maharashtra* (2006), “**enabling provisions**” which permit the state legislature to enact laws granting municipalities powers, but they do not per se require that such powers be necessarily handed over to the municipalities in question



