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Theory, Culture & Society, Vol. 24, No. 1, 1-33 (2007)
DOI: 10.1177/0263276407071559
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The State of Globalization

Legal Plurality, Overlapping Sovereignties and Ambiguous Alliances between Civil Society and the Cunning State in India

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The successful global diffusion of formal democracy has gone hand in hand with the hollowing out of its substance. Ever more realms of domestic public policy are removed from the purview of national legislative deliberation and insulated from popular scrutiny. Rhetoric of accountability has accompanied the increasing unaccountability of international financial and trade organizations, transnational corporations as well as of states and NGOs. The new architecture of global governance characterized by legal plurality and overlapping sovereignties has facilitated a game of 'passing the blame' among these four actors. There is a curious ambivalence in current debates on globalization about the role of the state, which is conceived of as both central and marginal. Globalization is seen to be marked by the decline of both the external and the internal sovereignty of the state. Contrary to such a view, it will be argued here that the state is both an agent and an object of globalization. Although inadequate, the state remains indispensable as its laws and policies play a key role in transposing neo-liberal agendas to the national and local levels. If in the age of globalization and of economic Empire, political violence has been replaced by legal violence, resistance to it is also articulated in the language of law. This paper focuses on the dynamic of legal politics against impoverishment and dispossession caused by the new global designs of intellectual property protection, biodiversity conservation and privatization of the commons in India. The case studies in this paper point to the emergence of intertwined structures of rule, overlapping sovereignties and complex processes of legal transnationalization that have reconfigured the relations between law, state, and territoriality. If welfare states were concerned with the redistribution of risk and resources, cunning states seek to redistribute responsibility. Sensitivity to the history of colonialism would be an important corrective to the presentism and Westerncentrism of analyses of (legal) globalization.

Theory, Culture & Society

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Theory Culture Society 2007; 24; 1

DOI: 10.1177/0263276407071559

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