HUMAN RIGHTS CITIES

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Abstract: A striking development in human rights implementation over the past decades has been the rise of human rights cities. This contribution defines a human rights city as an urban entity or local government that explicitly bases its policies, or some of them, on human rights as laid down in international treaties, and thus distinguishes itself from other local authorities. It theorizes the background to this process and offers a typology of human rights cities. Some initiatives, for instance, are more top-down and others more bottom-up, and some cities emphasize a specific subset of rights, whilst others base their policies on human rights in general. The typology is followed by a brief discussion of the actual legal obligations that cities have in the field of human rights implementation. The main reasons for cities to engage with human rights are, however, more social and political than purely legal. This socio-political background is illustrated in referring to the city of Utrecht, in the Netherlands. Finally, the contribution offers some general conclusions on the potential and pitfalls of reference to international human rights in formulating urban policies.

Introduction

One of the most remarkable developments in the field of human rights implementation over the past decades has been the rise of human rights cities. Global urbanization, attention for rights realization and for the potential of other actors than the nation-state in this process has lead to a multifarious development towards explicit urban engagement with the discourse and practice of international human rights. In this process, international organizations and local authorities have increasingly reached out to one another, often by-passing the nation-state in the process. Whether it concerns San Francisco in the USA adopting a CEDAW ordinance, Graz in Austria conducting a human rights impact assessment, Kaohisung in Taiwan or Kati in Mali stepping up as a human rights city, Rosario in Argentina combating domestic violence as a human rights city or the UN reaching out directly to local authorities – local governments might well be one of the most prominent actors in human rights implementation in the future.

This handbook chapter seeks to theorize the background to the rise of human rights cities, and offer a typology of the many shapes that they take. In addition, it briefly discusses

the degree to which local authorities have an independent legal obligation to respect, protect and fulfil international human rights. Complementing this legal perspective with a more socio-political approach, it discusses the reasons why cities opt to engage with human rights and the potential and pitfalls involved, presenting the Dutch city of Utrecht as an illustration. The type of local government involved and the ways in which cities engage with human rights and their reasons for doing so differ considerably. Nevertheless, this article will define a human rights city as an urban entity or local government that explicitly bases its policies, or some of them, on human rights as laid down in international treaties, and, in doing so, distinguishes itself from other local authorities.

The contribution is structured as follows. After a discussion of the main reasons for the rise of human rights cities, this article will present an overview of the many ways in which these cities have come to relate their policies to human rights over the past decades. There is, for instance, the right to the city movement, but also the United Cities and Local Government initiative and regional initiatives like those initiated by the Council of Europe and the European Union. In addition, there are cities that have opted to base policies on one particular human rights issue or treaty, like CEDAW or CERD. The general typology is followed by a brief discussion of the actual legal obligations that cities have in the field of human rights implementation. As is often the case, however, the main reasons for cities to explicitly engage with human rights are more social and political than purely based on these legal obligations. This socio-political background is illustrated by referring to the city of Utrecht, in the Netherlands. Finally, the contribution offers some general conclusions on the potential and pitfalls of reference to international human rights in formulating urban policies.

Background: reasons for the rise of rights cities

What, first, forms the background to the rise in attention for human rights and the city? In essence, this seems to be about a number of large-scale shifts: within the human rights framework itself, in governance, in demographics and in urban identities.

A first relevant shift is the often-noted movement, within human rights discourse, from standard-setting to implementation. One of the first organizations to define the potential of human rights cities, the People's Movement for Human Rights Education, takes as its point of departure Eleanor Roosevelt's famous statement that human rights begin close to home, and that if they lack meaning there, they lack meaning anywhere (Marks and Modrowski, 2008). In spite of this insight by one of the main authors of the UDHR, most of the intellectual and practical energy of the international community in the first decades after its formulation in

1948 went into formulating binding human rights standards like the ICCPR, the ICESCR, CAT and CERD but also specialized treaties like the Women's Convention and the Convention on the Rights of the Child. Additionally, regional human rights instruments like the ECHR and ACHPR were negotiated, with an emphasis on the enforcement of rights via the judicial system.

It was only in the 1990s, with the Vienna Declaration and Programme of Action as adopted at the World Conference for Human Rights that the international community shifted its attention toward the actual implementation of human rights. The Vienna Declaration of 1993, adopted at the end of the Cold War, emphasized the importance of human rights education and of human rights monitoring and encouraged the establishment of national human rights institutions.[1] The emphasis on implementation led to a shift, in research and practice alike, away from the nation-state and towards the role of other actors in the realization of rights. One manifestation of this was the widespread recognition, described elsewhere in this volume, of the role of NGOs and businesses in human rights implementation. Another was the setting up of national human rights institutions all over the world to promote and protect human rights at the national level.

In a parallel trajectory supranational enforcement of human rights was strengthened, in expanding the powers of human rights monitoring bodies, appointing special rapporteurs and setting up a new Human Rights Council with the power to periodically review the human rights record of all UN member states. All these bodies would increasingly emphasize the role of local authorities in implementing human rights. The Special Rapporteur on Violence against Women, to take one example among many, in visiting Italy in 2012, did not only speak to representatives of the national government and various NGOs, but also visited Rome, Milan, Bologna and Naples, and in her report explicitly referred to the importance of local political will to address violence against women.[2]

A related reason for the rise of rights in discussions on urban policies is the expansion of the rights catalogue itself, and a number of marked shifts in emphasis. Even if the indivisibility of all human rights has always been a formal principle in the international human rights discourse, social and economic rights have gained in enforceability, and thus also in importance, over the past decades (Coomans, 2006). In addition, the due diligence obligations of states in not only not violating but also actually undertaking action to realize human rights obligations have been worked out more explicitly in legal instruments and case law over the past decades. All this has made it more reasonable to shift focus to that level of

government best placed to realize rights like the right to education, housing and health care: the local government.

An important shift in governance that also partly explains the rise of human rights cities is the global trend, initiated in the 1980s, towards the decentralization of governmental powers (Otto and Frerks, 1996). Whether this trend was fuelled by theories of good governance and new public management, notions of pluralism and local autonomy or merely by the desire to cut state expenditures, most countries in the world have – over the past decades – transferred important powers to local authorities. Many of these powers concern fields in which human rights can either be realized or be violated: from safety to land tenure, and from education and health care to the gathering of information with the privacy concerns related to it.

An additional reason for international organizations to cast their eyes on cities as loci for rights realization lies in global demographics. In 2008, for the first time in history, more than half of the world lived in towns and cities.[3] This number is expected to rise to almost 5 billion people in 2030. Cities, sociologists state, hold a unique potential for human empowerment and for solving social and environmental problems. At the same time, they face important challenges in the field of social cohesion. With people from many different areas and backgrounds grouped together who have often moved to the city in search of individual autonomy, citizens and governments alike seek to identify a discourse that unites urban residents and forms a common frame of reference in setting out the mutual expectations of the city and its inhabitants.

A final and related shift is closely related to the population increase in cities. Whereas many cities long precede the nation-state and their residents have long felt more attached to their city than to the nation itself, the past decades have also witnessed a marked increase in the assertion of autonomy, and urban identity, of individual cities and local authorities. The rise of city marketing illustrates the degree to which cities, for instance in Europe, have moved from considering themselves as an engine for economic growth to also investing considerable resources in the construction, management and communication of the city's image, to residents and outsiders alike (Paddison, 1993; Kavaratzis, 2004; Kavaratzis, 2004)

In all, it is the interplay between the evolution of the human rights framework, shifts in global governance and global demographics as well as the changing self-image of cities that explains the rise of human rights cities since the early 1990s.

Towards a typology of human rights cities

Even if more and more cities explicitly engage with international public law, the discourse on the relevance of international human rights to the city comes in many different forms, with the initiative taken both from a top-down and a bottom-up angle, with emphasis on specific subsets of rights, but also to human rights in general. This section seeks to describe some of these ways in which cities engage with human rights in general, giving examples of the cities concerned. Whereas the relationship between rights and city long precedes the formation of the nation-state, the overview focuses on current urban politics which refer to international human rights.

The right to the city movement

A movement preceding and inspiring current human rights city initiatives was the rally around the notion of the 'right to the city', which has resulted in a European Charter on the Right to the City and attempts to draw up a World Charter.[4] The term has its origins in French sociologist Henri Lefebvre's 1968 essay *La Droit à la Ville.* Reacting to a process of urbanization (in Paris and elsewhere) which was increasingly driven by the interests of capitalism and business, Lefevbre proposed the right as 'a cry and a demand' (Lefebvre, 1996 [1967]). In this opinion, the creation of urban spaces (Lefebvre, 1996 [1967]) reinforced already existing social inequalities, thus necessitating a response from those disadvantaged in that process (Plyushteva, 2009). Marxist geographers like Harvey continue to understand the right to the city in this way, suggesting that to invoke the right means 'to claim some kind of shaping power over the processes of urbanization, over the ways in which our cities are made and remade and to do so in a fundamental and radical way' (Harvey, 2012: 5). Here, the right to the city becomes a prism through which to critically investigate the relationship between social exclusion, social rights and social justice in public spaces (Mitchell, 2003). Sceptics, however, have argued that changes in urban design alone cannot bring about a restructuring of the global capitalist economy (Plyushteva, 2009). Hence, many contemporary NGOs, CSOs and social movements use a less politicized version of the term and strive simply for the creation of 'a just, accessible and enjoyable city' (Plyushteva, 2009; Mayer and Palmowski 2004; Mayer, 2009).

What, then, does the right to the city concretely entail? Whilst many urban social movements rely on the idea, the right to the city is still very much an umbrella slogan (Mayer, 2009). Attoh (2011) argues that it can be invoked to claim socio-economic rights (like the rights to housing or transportation), liberty rights (right against surveillance or police

brutality) or group rights (of women or minorities). To complicate matters further, the term has been used by groups as divergent as the homeless, small business owners, or working class people (Marcuse 2009). The 'conceptual fuzziness' of the right to the city has been endorsed by many scholars as '[t]he ability to link the rights of bus riders to those of the homeless or those of welfare recipients must be seen as a strength' (Attoh, 2011: 678). In almost all cases, however, reference to the right to the city includes a demand for democracy and participation. To name only one instance, Dikeç and Gilbert (2002) argue that the right to the city is best described as 'a new societal ethics' which entails that residents are allowed to fully participate in urban society. Finally, good urban governance ideals play an important role and have led to the development of 'toolkits on participatory decision-making, transparency in local governance and participatory budgeting' (Mayer, 2009: 368). The latter policy, for instance, has been implemented in Porto Alegre and 70 other cities around the world.

For all its vagueness, the right to the city has made its way into a number of (quasi)-legal instruments, like the European Charter for the Safeguarding of Human Rights in the City, adopted in Saint Denis during the Second Conference for European Cities on Human Rights in 2000.[5] This Charter, which was signed by 400 cities, defines the city as the future of mankind. 'The city today is home to all kinds of assemblies and, above all, a space for personal development. At the same time, it is the locus for contradictions, conflict and danger: The urban space with its anonymity on the one hand is a source of all types of discrimination rooted in unemployment, poverty, and disdain for cultural differences, while simultaneously municipal and social practices are appearing, which increasingly build on the principle of solidarity' (European Conference of Cities for Human Rights, 2000). Within this Charter, the right to the city is set out as follows: Art. 1 (1): The city is a collective space belonging to all who live in it. These have the right to conditions which allow for their political, social and ecological development but at the same time accepting a commitment to solidarity. Art. 1 (2): The municipal authorities encourage, by all available means, respect for the dignity of all and quality of life of the inhabitants.

In addition to the European Charter, there is a work plan seeking to define a World Charter on Human Rights in the City, debated in the context of – amongst others – the World Social Forum. Within these discussions, the right to the city is defined as 'the equitable usufruct of cities within the principles of sustainability, democracy, equity, and social justice' (Ortiz, 2012). Here, again, the proposed Charter emphasizes both general human rights and a number of specific rights related to the city, considering the city as a sphere for the realization

of all human rights, emphasizing the social function of the city and calling for its democratic management (Ortiz, 2012). The end goal here is the formulation of an instrument that could be adopted by the UN system, regional human rights defenders and governments as a legal reference in the adoption of the right to the city as a human right. One of the main reasons why the World Charter has not yet come about is the severe disagreement on a number of key features, for instance the limitation of the scope to the city (thus negating, for instance, the popular settlements in which many human rights abuses take place).

Human rights cities

The term human rights cities as such, however, was used firstly by the NGO The People's Movement for Human Rights Learning (PDHRE). The NGO was founded in 1989, and explicitly takes the Vienna Declaration of 1993 as a point of departure for its work in the field of human rights education and realization. Its central assumption is that learning about human rights, and implementing these insights, can improve society (PDHRE, 2007). It defines a human rights city as a 'city or a community where people of good will, in government, in organizations and in institutions, try and let a human rights framework guide the development of the life of the community' (2007: 3). In addition, the organization emphasizes the importance of the engagement of all local stakeholders in mobilizing human rights to bring about social change.

In an overview work published in 2008, the organization set out the steps to be taken in the formation of a human rights city, based on insights in the field of participatory community-based research and critical pedagogy: setting up a steering committee representing the main sectors of society, drafting a plan of action that links community priorities to human rights, implementing the work of the human rights city and sharing insights (Marks and Modrowski, 2008). With its emphasis on civic engagement and the transformation of attitudes, the movement explicitly seeks to address and modify local power relations. Since the founding of the NGO, dozens of cities worldwide have adopted the title of human rights city, albeit with very different forms of actual engagement with human rights. In the world's first human rights city, Rosario in Argentina, 35 organizations uniting from indigenous people, human rights organizations, sexual diversity organizations, development bodies and women's groups signed a joint agreement in 1997, resulting in amongst others attention for violence against women in police training, human rights education and local activities to ensure the right to a clean environment (PDHRE, 2007). By now, there are dozens of human rights cities that have followed the PDHRE methodology, ranging from

Porte Alegre in Brazil to cities in Ghana, Kenya, Rwanda, Mali, India, Canada and the Philippines. In addition, Washington DC adopted a resolution to become a human rights city in 2008, aiming to make the city 'a model for communities around the world to witness practical ways the human rights framework can make every citizen a partner of sustainable change'.[6]

Whilst the PDHRE proposes a very specific methodology for the formation of human rights cities, there are more and more cities that adopt the identity of human rights city without making use of it. The Korean city of Gwangju, for instance, prides itself on having been in the forefront of advocating democracy, human rights, equality and peace, and having partaken in the uprising against the military dictatorship in 1980.[7] It organized a conference for 100 human rights cities in 2011, setting up a human rights cities forum and issuing the Gwanju Declaration on Human Rights City.[8] Similarly, the city of Utrecht – further described below - has adopted the identity of human rights city without explicit involvement of the PDHRE.

One of the first European cities to have engaged extensively with the topic was Barcelona, where human rights became part of municipal policies in the early 1990s when Mayor Maragall established the position of the Civil Rights Commissioner, which later became the Civil Rights Department (CRD) of Barcelona (Grigolo, 2011b). The initiative was taken in order to address the consequences of 'new' waves of migration and to deal with the increasing racial, ethnic, and religious diversity in the city. In the beginning, the CRD established a number of services such as the Office for Non-Discrimination (OND) and the Office of Religious Affairs (OAR).[9] The OND, for instance, provides legal services to individuals who want to file a complaint of discrimination against private persons or public bodies (Grigolo, 2011a). The City of Barcelona also ratified the European Charter for the Safeguarding of Human Rights (ECHRC) in 2000; the incorporation of ECHRC provisions into local ordinances has been on the agenda ever since. Most recently (that is, since 2004), more attention has been paid to women and LGBT rights. New municipal services have been established and women and LGBT rights have been promoted across all city departments (Grigolo, 2011b). As Grigolo concludes, 'it is fair to say that Barcelona is a "city of (human) rights" as the RDC and other departments have made a genuine effort to safeguard human rights (2011a: 7). Particularly successful has been the promotion of minority rights and the providence of human rights education. Yet, the facilitation of human rights across local government in the broad sense as well as the city population can still be improved.

The first European city formally to adopt the identity of human rights city was Graz, where the Municipal Council passed a human rights declaration in February 2001. In this document, the Council committed itself to identify the gaps in human rights protection, to inform citizens about their rights, and to take into account human rights in its actions. A 'Steering Committee', spearheaded by the European Training and Research Centre for Human Rights and Democracy (ETC) of Graz, put forward an action plan in 2002, suggesting a number of human rights policies, for instance in the protection of migrants, women, and elderly people (Schöfer, 2002). The city established the Human Rights Advisory Council in 2007, which has the task to monitor and evaluate human rights policies and to recommend further actions.[10] The fourth report of the Council, published in 2011, focused on four key areas, namely civil and political rights, economic and social rights, children's rights, and women rights. The authors of the report take a critical attitude in some parts of the report, for instance, in pointing out how the realization of social and economic rights was substantively impaired by political struggles on the boundaries of these rights. Nonetheless, the report also mentions positive aspects such as the successful promotion of neighbourhood and community work or progress in combating homelessness. Finally, Graz has taken steps to encourage actions by private groups and individuals. For instance, it has established a human rights award which is conferred every year, honoring extraordinary initiatives in local human rights promotion.[11] Since then, many European cities have followed suit, like the city of Nuremberg that relates its identity as a human rights city to its past.

It is striking how many of these human rights cities combine external networking activities with internal action. Nantes in France, for instance, aims to become 'the world capital of human rights'.[12] The most important and visible event is the *World Forum on Human Rights* in Nantes which is organized every two or three years by the International Permanent Secretariat Human Rights and Local Governments (SPIDH). The SPIDH, set up as a French organization in 2007, receives 'moral and financial support' from the City of Nantes, the Urban Community of Nantes, as well as the regions of Western Loire and Loire-Atlantique (SPIDH). The 4th World Forum in 2010, which attracted 2,800 participants, discussed a variety of issues, from slavery to food security, in the light of the responsibility of local governments. These activities are coupled with local initiatives. Most notably, Nantes has created various citizens' councils such as the Nantes Councils for Youth, the Citizenship of Foreigners, and Handicapped People. These Councils provide a number of services (such as newsletters or information about access to justice) and function as platforms in which citizens can initiate projects and communicate with the local authorities. Furthermore, the

Mayor of Nantes has actively promoted non-discrimination in public service in a Charter on Diversity and Gender Balance in 2007. Finally, members of the local government such as Deputy Major Ayrault and Human Rights Councilor Cécile De Oliveira have taken symbolic action in the defence of human rights such as raising the Tibetan flag from a window of the town hall.[13]

United Cities and Local Government

Apart from these cities that explicitly identify themselves as human rights cities, there are more and more local government networks that seek to incorporate human rights in their activities. One important movement in this field is the United Cities and Local Government (UCLG). This is a network consisting of over 1,000 cities and 112 local government associations worldwide, which has been described as 'probably the biggest umbrella association of local governments in the world' (Blank, 2006: 922). With its headquarters in Barcelona, the mission of UCLG is '[t]o 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' (UCLG).

UCLG was established in 2004, merging three organizations, namely, the International Union of Local Authorities (IULA), the United Towns Organization and the 'Metropolis' network (Saunier, 2009). The IULA had existed since 1913 when it was created in the First International Congress of Cities and Compared Exhibition of Cities. Strongly embedded in Socialist networks in the first half of the 20th century, the IULA functioned 'as a mouthpiece for self-government and a documentation network to share municipal policies and technological information' (Saunier, 2009). After the Second World War, with its location moved to The Hague, the Union tried to expand its scope beyond Europe, providing information about best municipal practices with installation, training, and demonstration projects. At the same time, it established links with the UN, which used the IULA to create local governance institutions such as the International Council for Local Environment Initiative (1990), the Cities Alliance Program (1999), or the United Nations Committee of Local Authorities (1999). The merger of the IULA with the two other networks expanded the network of cities but did not end the competition to embody the voice of local government as other local government organizations continue to exist (Saunier, 2009). UCLG retains a 'consultative status' as a non-governmental organization in the UN and regional organizations

and has thus to be contrasted to formal arrangements such as UN Habitat (Feyter, 2011: 99).

The legal framework of UCLG is clearly influenced by international human rights instruments. The UCLG Constitution recalls the Universal Declaration in its preamble, stating also that 'the will of the people is the basis of the authority of government' (*The Constitution of the World Organisation of United Cities and Local Governments*, 2004). It further recognizes that local governments play 'a vital role' in the realisation of human rights as they are stated in international instruments. Combating race and gender inequality as well as other forms of illegal discrimination is explicitly mentioned as one of the objectives of UCLG in Article 3 of the Constitution. Moreover, different branches of UCLG such as its Committee on Culture have looked closer into some of the problems of human rights. For instance, it has discussed the relationship between human rights and culture in the *Agenda 21 for Culture* (UCLG's Committee on Culture, 2004).

The promotion of human rights is only one of the topics of UCLG. Nevertheless, the UCLG has increasingly referred to human rights and the city over the years, giving – for instance – its support to the process of formulating a World Charter on Human Rights in the City discussed above.

The case of Europe: The European Union and the Council of Europe

Apart from individual actors seeking to reclaim and democratize public space under the heading of the right to the city, and the networks of local governments explicitly seeking to implement international human rights like the UCLC, there have also been a number of comparable initiatives initiated – primarily – within regional and international organizations. To illustrate this, this contribution will zoom in on one particular region – Europe – and subsequently on one instance of a human rights city: Utrecht.

One European organization with a strong historical interest in strengthening human rights at the local level is the Council of Europe. Over the years, its Congress of Local and Regional Authorities has become more and more proactive in encouraging human rights, adding this component to its designated mandate of promoting local and regional democracy as well as the cooperation between cities and regions.[14] A prominent Council of Europe organ, the Commissioner for Human Rights has come to put more and more emphasis on how a large proportion of human rights work 'should be done locally, close to the people' (The Council of Europe Congress of Local and Regional Authorities, 2011).[15] In addition, the Congress of Local and Regional Authorities of the Council of Europe has clearly taken on

human rights as a central challenge to local government. The 2012 report on 'The state of the Congress', for instance, enumerates the various aspects that the Congress focused upon in promoting human rights in that year. Firstly, it adopted a resolution calling upon local and regional governments to appoint human rights ombudsmen (The Council of Europe Congress of Local and Regional Authorities, 2011). Ombudsmen are supposed to facilitate dispute resolution between citizens and local authorities and facilitate citizens' access to public institutions. Furthermore, in 2011, the Congress adopted a strategic action plan to mobilize local governments to protect children against exploitation and sexual abuse. It thereby took another step towards the implementation of its 2009 resolution on preventing violence against children. Finally, the Congress also joined in a Council of Europe campaign to combat domestic violence, promoting the ratification by Member States of a Convention on the issue. In addition, the 2011 European Local Democracy Week, a pan-European initiative organized by the Council of Europe, had the local implementation of human rights as one of its major themes. Within the European Union, the connection between local governments and human rights is increasingly made in the context of the joined-up governance program.[16]

As human rights implementation involves both policy-making and public service providence, it represents another field where joint-up governance (JUG) approaches can be applied. It was in this sense that the EU Agency for Fundamental Rights (FRA) located in Vienna, Austria, used it in launching such a project in early 2010. The FRA describes joined-up governance in human rights as 'a strategy that seeks to coordinate the development and implementation of policies and actions across multi-level governance structures, with the aim to address human rights issues in a comprehensive and integrated manner' (FRA). According to FRA, this strategy entails five aspects: firstly, coordination and partnership between national, regional, and local governments as well private and public sectors; secondly, creating an awareness for human rights among citizens; thirdly, assessing the impact of human rights implementation; fourthly, using already existing EU funding for rights projects; and finally, sharing best human rights practices between local communities and cities (Kjaerum, 2011). All these measures are supposed to bring about 'a comprehensive government delivery in compliance with human rights standards to everybody in society' (FRA).

Rather than being a 'movement', JUG in human rights was initiated as an EU policy with the FRA 'in the middle of [the] project' (Kjaerum, 2011). It therefore resembles more of a 'top-down JUG,' which 'refers to initiatives emanating from the authoritative core, usually the political or strategic leadership levels, which flow down to management and service

levels' (Keast, 2011: 222). This does not mean, however, that the FRA project cannot gradually evolve into a bottom-up JUG where policy initiatives are taken by the participating cities themselves.

Reference to specific rights

Apart from the cities that generally adopt human rights as a policy framework, there are also many cities that opt for basing policies on one particular treaty, and − in doing so − going further than the standards set nationally.

One example is the way in which San Francisco adopted CEDAW, the Women's Convention, as a local ordinance in 1998. Three years after the Women's Conference in Beijing, and with little hope for its ratification by the US, this law was essentially the result of lobbying efforts of a coalition of community groups lead by the Women's Institute for Leadership Development (WILD for Human Rights) (Lozner, 2008). In adopting it, San Francisco agreed to be kept to the CEDAW standards of human rights protection, and to establish a CEDAW task force. Over the years, this task force has focused on conducting gender analyses, and on thematic areas like violence against women, women in the workplace and girls.[17] It also successfully took initiatives like citywide gender budgeting. The initiative has led community organizations in New York and Los Angeles in the USA to propose local human rights ordinances as well, in this case to adopt CEDAW and CERD simultaneously at the local level.[18] In addition, dozens of American cities have passed resolutions supporting the ratification of CEDAW.[19]

Another example of cities focusing on one particular human rights issue is the International Coalition of Cities against Racism, an initiative launched by UNESCO in March 2004 to establish a network of cities interested in sharing experiences in order to improve their policies to fight racism, discrimination, xenophobia and exclusion.[20] It is divided into a number of regional coalitions of which the first one was the European Coalition of Cities against Racism (ECCAR), which was created in December 2004. The overarching aim of the international and regional coalitions is 'to supply local authorities with an operational programme that will allow a more efficient implementation of policies against discrimination' (UNESCO 2005). To this end, the ECCAR adopted a ten-point action plan which included, amongst others, setting up a monitoring network to promote equal opportunity practices. Part of the ECCAR are 104 European municipalities including Nuremberg (where the ECCAR was created), Krakow, Barcelona, Paris, and Stockholm (ECCAR). Other 'Lead Cities' of regional networks include Casablanca (Arab region), Durban (African region) and

Montevideo (Latin America and Caribbean). All regional coalitions together have more than 300 members, including not only cities but also local government associations. The UNESCO website provides for examples of best practices, describing specific projects that cities have implemented in order to fight racism and related discrimination.[21]

3. The legal obligations concerned

Whereas there are more and more local authorities and cities to explicitly base (part of) their policies on international human rights, there are many others for which human rights hardly constitute a daily point of reference. This raises the question to what extent all local authorities have a duty to respect, protect and fulfill human rights in general policy making and in individual contacts with citizens. National states, of course, are the actors to sign and ratify human rights treaties, and are thus bound to realize that obligations set out in them. But to what extent are local authorities duty bearers in their own right?

Whereas the answer to this question depends strongly on the type of right involved and the constitutional dispensation of the country concerned, one can generally state that international legal obligations also bind local authorities where this is applicable (Meyer, 2009). The general principle behind this is set out in art. 28 of the UDHR: 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'. Human rights create entitlements to an order that ensures their realization. It is, however, rare for human rights treaties to explicitly hold other actors than State Parties responsible for the human rights enshrined in them. One exception is the Convention on the Rights of the Child, of which art. 3 explicitly holds that 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration'.

More often, the way in which the human rights obligations also apply to local authorities is set out in case law and general recommendations and country reports by international monitoring bodies. For instance, in *Assanidze vs Georgia,* for instance, the European Court on Human Rights and Fundamental Freedoms from 1950 set out how

'The authorities of a territorial entity of the State are public-law institutions which perform the functions assigned to them by the Constitution and the law. In that connection, the Court reiterates that in international law the expression "governmental organisation" cannot be held to refer only to the government or the central organs of

the State. Where powers are distributed along decentralised lines, it refers to any national authority exercising public functions.'[22]

This is also clear from the way in which many human rights monitoring bodies directly refer to municipalities and local authorities in their recommendations and country reviews (Meyer, 2009).

Whilst local authorities will, in many cases, be the duty bearers to realize international human rights ranging from the right to privacy to the right to shelter, the mechanisms by which this obligation arises, and can be called in, depend on the type of right involved and the question as to whether the country concerned has a monist or a dualist constitutional dispensation. First, there is the question as to whether the right involved is justiciable, and can thus be put to a court, but also to a public authority, by an individual. In classical international law doctrine, this mostly concerns civil and political rights, which have – over the past years – also increasingly been interpreted as entailing positive obligations. For example, the European Court of Human Rights held the right to life as enshrined in art. 2 to have been violated by the local authorities in Turkey that allowed houses to have been built on a rubbish heap, resulting in the death of 39 people after a methane explosion. Whereas the court held that it was not its role to decide on the best policy to adopt in dealing with the social, economic and urban problems in Istanbul, Turkey, there was a positive obligation to take preventive measures which fell 'precisely within the powers conferred on the authorities'.[23] Similarly, the Supreme Court of India has interpreted the right to life in its constitution as prohibiting, for instance, the eviction of pave dwellers from the streets of Bombay because this threatened their livelihood (and thus, ultimately, their life).[24]

Increasingly, however, social and economic rights themselves are considered to have a justiciable 'minimum core content', and to be self-executing in that they allow citizens to pursue claims in a court of law, if needed (Coomans, 2006; International Council on Human Rights Policy, 2005). The Committee on Economic, Social and Cultural Rights, for instance, already held in 1990 that a number of these rights are capable of immediate application 'by judicial and other organs in many national legal systems' like free and compulsory primary education. National courts, most notably in South Africa and India, have considered other socio-economic rights to have such a minimum core content. Most notably, in the landmark case of *Grootboom*, the South African constitutional court recognized the right of access to adequate housing as a minimum core content of the right to an adequate standard of living in art. 11 ICESCR, and stated that its constitution required the Cape Metropolitan Council to

devise and implement within its available resources a comprehensive and coordinated programme to realize progressively the right of access to adequate housing. The court held that in failing to make reasonable provision within its available resources for people in the Cape Metropolitan area with no access to land, no roof over their heads, and who were living in intolerable conditions or crisis situations, the local government had violated the right of access to adequate housing as enshrined in its constitution.[25]

The South African ruling was not only based on international human rights law, but also on the national constitution. The degree to which human rights are self-executing, and thus apply directly within a given constitutional order, depends on whether it concerns a monist or a dualist constitutional dispensation. In a monist country like the Netherlands, the rights do not have to be transposed into national legislation but can – provided that they are considered to be self-executing – be claimed directly (Kummeling, 1995; Elzinga, De Lange and Hoogers, 2008). For instance, in considering the position of an undocumented migrant child and mother who had been evicted in 2011, for instance, the Dutch administrative court held that the municipality of Amsterdam had violated art. 8 of the ECHR.[26] The consequences for municipalities are comparable to the general position of European law within the whole EU. In the landmark *Constanzo* case, the European Court of Justice stipulated that if provisions have direct effect, all organs of the administration, including decentralized authorities such as municipalities, are obliged to apply those provisions even if there is a clash with, or an absence of, national legislation on the issue concerned (Verhoeven, 2010).[27]

In countries with a dualist legal system, even rights with direct effect first have to be transposed in national legislation, in order become applicable. One well-known and much-discussed example of this process is the UK *Human Rights Act* of which art. 6 made it unlawful for any public authority to act in a way incompatible with the ECHR. As a result of this Act, the High Court held that a local authority had violated art. 8 in failing to find suitable accommodation for a disabled and wheelchair bound woman, thus confining her to stay in one room.[28] Similarly, the introduction of the Irish European Convention of Human Rights Act in 2003 created an obligation for local authorities to comply with the minimum standards of service provision as worked out by the Strasbourg Court in the context of art. 3 and art. 8 ECHR, and to respect the non-discrimination clause in art. 14 ECHR (Kenna, 2010). An even more far-reaching way in which human rights provisions are made applicable at the local level, even if the states concerned have not signed the relevant human rights treaties, is via the type of ordinances discussed above.

The example of Utrecht in the Netherlands

Even if international human rights constitute manifold legal obligations for local governments, this is often not the most important reason to explicitly refer to them in municipal policies (Merry et al., 2010). Individual municipalities can have a variety of motives to engage with human rights, ranging from the search for a common normative language that brings very different people together and can thus contribute to social cohesion, to the search for a specific urban identity, to dissatisfaction with national (social) policies and legislation and the search for legal grounds to deviate from them. Additionally, explicit engagement with human rights often comes about perchance, on the instigation of individuals with a specific knowledge of and interest in international human rights, whether these are politicians, NGO activists or influential academics (Davis, 2007). The interplay of these motives, and the potential and pitfalls in becoming a 'human rights city' can be illustrated by looking at one particular city, that of Utrecht in the Netherlands.

As a university town with more than 300,000 inhabitants of very different backgrounds, Utrecht is also the place in which the Treaty of Utrecht made an end to the wars between Spain, France, Portugal, England and the Seven Provinces in 1713. In addition, it became home to the Netherlands Human Rights Institute (College voor de Rechten van de Mens) in 2012. The city's ambitions to become a human rights city started with a phone-call from the FRA Joined-Up Governance project, asking whether the mayor would want to speak at a conference on human rights and the city. Whereas the mayor, a social democrat and former judge, did not have time to do so, he was intrigued by the theme and asked the policy department to work on it. As a result, the city joined the FRA Joined-Up Governance project and developed and implemented a number of activities strengthening its profile as a human rights city.[29]

The municipal government has a variety of different reasons to explicitly engage with human rights. For one, policymakers consider human rights language as a normative lingua franca, a way to find common ground amongst the city's 184 nationalities. Bringing the interests and current activities of a wide variety of citizens and organizations together under the general banner of human rights could, it was felt, strengthen these activities and the social cohesion in the city. 'Suddenly the people handing out soup and those pushing someone in a wheelchair are part of one wider process'.[30] The policy endeavor is thus essentially one of reframing and strengthening existing activities: 'We look what happens in town, and then reframe it in terms of human rights'.[31] In the policy discussions on human rights, it is not so

much the legal but rather the cultural and discursive elements that are emphasized: 'human rights function as a mirror, a way of looking at ourselves'.[32] Nevertheless, the identity of a human rights city is also considered a form of city branding, a way in which Utrecht can distinguish itself from cities like Amsterdam, Rotterdam and The Hague.[33]

One of the first activities undertaken by the municipality as of 2010 was an inventory of the degree to which Utrecht complied with international human rights obligations (Gemeente Utrecht, 2011). Under the subheading 'An urban quest for social justice' a final report assessed human rights compliance in a case study in ten different policy fields. Where it concerned combatting discrimination, for instance, the policy measures in place in Utrecht were not considered by the municipal council to be adequate. In combating poverty, the so-called 'U pass' allowing access to sports, culture and education was presented as a best practice to combat social exclusion. The measures to combat domestic violence and human trafficking, in providing shelter to the homeless and Fair Trade policies were all presented as best practices. Whereas many schools in Utrecht are 'Peace Schools' and thus technically comply with treaty obligations in the field of human rights education, the research found that the specific connection with human rights was hardly ever made. Similarly, the report set out how the placement of cameras in public space was in line with treaty obligations, even if it hardly contributed to combating crime. In assessing immigration policies, the report stipulated how Utrecht went further than national policies, but could not provide shelter to all undocumented migrants. Also, in looking into the right to health care for the elderly, the report pointed out the need for a more culturally sensitive and individualized approach.

Another important emphasis in the city's policies concerned enhancing knowledge of human rights. A first task consisted of research into human rights knowledge. Here, it became clear that – not surprisingly – 90 percent of the people in the city found it very important that the municipality would protect human rights. The rights considered to be most important were equal treatment, the freedom of religion, the freedom of expression and the right to education. In addition, the city of Utrecht took the lead in a wide range of initiatives to strengthen municipal attention for human rights nationally and internationally. The city also teamed up with Amnesty International to stimulate that the Association of Netherlands Municipalities would write an information brochure on human rights at the local level. Internationally, it organized a series of conferences like a meeting of the Committee on Social Inclusion, Participatory Democracy and Human Rights of the UCLG, and worked together with cities like Vienna, Barcelona, Aarhus, Athens, Gothenburg and London. It also played a key role in

the Dutch representation to the Council of Europe Congress of Local and Regional Authorities.

In all these activities, the political side of 'rights talk' was never very far away. The municipality consciously chose both 'left-wing' and 'right-wing' themes for its initial research (immigrant rights *and* the right to privacy, for instance). When a gay couple was harassed, to give another example, the national press critically related this to the municipal ambitions in the field of human rights. Also, it became clear that the national government was not all too enthusiastic about the municipal ambitions.[34] For instance, a clear tension arose around the municipal decision to provide shelter to undocumented migrants, even those people who had exhausted all remedies in the asylum procedure. This practice caused a political controversy between Strasbourg and the Netherlands in 2009. The national government held that these migrants did not have the right to shelter, but the Committee looking into the implementation of European Social Charter ruled that banning children from shelter in a situation of extreme helplessness is contrary to the respect for their humanity dignity.[35] Whilst the national government indicated that it would not comply with the CESC ruling, it was followed up by a decision of Utrecht District Court stating that evicting a mother with a young asthmatic and epileptic daughter violated art. 8 ECHR, in combination with art. 17 and 31 of the European Social Charter, the CRC and CEDAW.[36]

Conclusion and future directions

As the international human rights framework has come to emphasize enforcement over standard-setting, and socio-economic rights and positive obligations have come to the forefront, cities have increasingly come into focus as a prime social space for rights realization. This is only enhanced by the increased autonomy that cities have gained as part of worldwide decentralization policies, but have also claimed in an ever-stronger attempt to assert their identity.

It is against this background that the rise of human rights cities should be understood. Ever since the right to the city movement of the 1970s, but especially since the mid-1990s, local governments have started to engage directly with international human rights. At times this concerned bottom-up initiatives, seeking to use human rights learning as an instrument for radical social change, like with the human rights cities that work with the NGO PDHRE. In other cases, like in the UCLG network, human rights are primarily considered an instrument to bring about democratic local self-government. Increasingly, international

organizations like the EU and the Council of Europe have started to reach out directly to local authorities in an attempt to realize the expanding human rights catalogue. Just as often, however, cities sought support for their social policies in (specific) human rights treaties, at times even explicitly departing from national viewpoints in doing so.

After all, international human rights law does hold local authorities, as part of government, accountable for the realization of human rights, and both international and national courts have increasingly set out the positive obligations for these authorities in this field. Nevertheless, a closer look at a human rights city like Utrecht shows that local authorities engaging with international public law have other motivations than those that are purely legal. Reference to human rights can form a common language, rallying different people, activities and interests and strengthening social cohesion within the city, underlining a particular identity, but also strengthening its autonomy vis-à-vis the national government.

Given the global changes set out, and the way in which reference to rights can serve a variety of purposes for cities and their citizens alike, the rise of human rights cities will undoubtedly continue in the years to come. Here, it is also important conduct more research on the motives of cities to refer to human rights, and the degree to which these ideals are subsequently realized. In addition, the exact legal obligations pertaining to the local realization of human rights in a given context merit much more scholarly attention than they have received to date. Such scholarly scrutiny is important as, with its potential of binding people from very different backgrounds together, on the one hand, and the permanent threat of politicization, on the other, local human rights realization clearly holds the same promise, but also faces the same challenges as human rights realization at a global scale.

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[2] Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjo, Mission to Italy, A/HRC/20/16/Add.2, 15 June 2012

[3] http://www.unfpa.org/pds/urbanization.htm

[4] European Charter for the Safeguarding of Human Rights in the City, Adopted at St Denis, 18 May 2000, available from http://www.idhc.org/cat/documents/Carta_ingles.pdf. For the discussion on the World Charter for the Rights to the City cf http://www.hic-net.org/document.php?pid=2422 [cited 27 September 2012]

[5] Ibid.

[6] Resolution in the Council of the District of Columbia, via www.pdhre.org

[7] http://humanrightscity.net/eng/subpage.php?pagecode=010201

[8] Cf http://humanrightscity.net

[9] By now, the number of public human rights agencies in Barcelona has increased. Citizens can also approach the Municipal Office for Civil Rights, the Department for Equality and Citizenship of the Barcelona County Council, the Ombudsman Service of Barcelona, the Ombudsman Service of Catalonia, as well as the Catalonia Civil Law Department of Justice, Government of Catalonia (Ajuntament de Barcelona).

[10] ETC Graz. 2012. *Was ist der Menschenrechtsbeirat?* European Training and Research Centre for Human Rights and Democracy [cited 20 June 2012]. Available from http://www.etc-raz.at/typo3/index.php?id=1109

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[14] The Congress of Local and Regional Authorities of the Council of Europe is a pan-European political assembly which consists of more than 600 members that hold elective office on the local and regional level. The Congress represents over 200,000 authorities in 47 European states

[15] Bringing human rights home: human rights action at the local level
Statement by the Commissioner for Human Rights, Thomas Hammarberg, at the 20th Session of the Congress of Local and Regional Authorities, 22 March 2011, CommDH/Speech(2011)3, https://wcd.coe.int

[16] The phrase 'joined-up governance' (JUG) was initially established by Tony Blair's New Labour administration in its 'modernization' programme at the end of the 1990s. While the precise meaning of JUG was not clear from the beginning, it was later defined as the aspiration to enhance performance in public administration through coordination of policies, better use of resources, cooperation between different agencies, and integration of public services (Pollitt, 2003).[16] JUG drew on a longer policy tradition in the UK, starting with the Churchill administration, which had sought to coordinate various branches of government in order to reduce cost and improve the quality of public services. Even though JUG did not therefore constitute a novel idea, 'it sounded good – catchy, inclusive, common-sense and sufficiently different from the policies of the defeated Conservatives' (Pollitt, 2003). Since then, the idea of JUG has been taken up by other national and local administrations, for instance in Australia or the United States (Keast, 2011; Lewis et al., 2009). In all cases, JUG describes the effort to achieve either horizontal or vertical integration in public management.

[17] http://www.sfgov.org

[18] http://www.nychri.org/

[19] http://www.wedo.org/wp-content/uploads/cedaw-factsheet.pdf

[20] UNESCO. 2012. *International Coalition of Cities against Racism* [cited 6 June 2012]. Available from http://www.unesco.org/new/en/social-and-human-sciences/themes/fight-against-discrimination/coalition-of-cities/

[21] http://www.unesco.org/new/en/social-and-human-sciences/themes/fight-against-discrimination/coalition-of-cities/good-practices/

[22] Assanidze vs Georgia [ECHR], Application no. 71503/01, 8 April 2004

[23] Oneryildiz v. Turkey {ECHR}, Application no. 48939/99, 30 November 2004

[24] *Olga Tellis v. Bombay Municipal Corporation* (Supreme Court of India), 10 July 1985

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[27] Fratelli *Costanzo SpA v. Comune di Milano,* [ECJ], ECR 1839, 22 June 1989

[28] *R. (Bernard) v. Enfield L.B.C.* (High Court of England and Wales), 2282 (Admin). 2002

[29] http://fra.europa.eu/fraWebsite/research/projects/proj_joinedupgov_en.htm and http://humanrightsutrecht.blogspot.nl/

[30] Presentation H. Sakkers, Conference 'Bringing Human Rights Home', Middelburg, 2 December 2011

[31] Meeting NGOs and policy makers, 13 January 2012

[32] Interview, 22 September 2010

[33] Amsterdam bases its social policies strongly on the Rawlsian notion of civility, whereas The Hague does manifest itself as City of Peace and Justice (and home to a variety of international organizations)

[34] Private conversation, 7 March 2012

[35] European Committee of Social Rights, *Defence for Children v. the Netherlands,* 20 October 2009, 47/2008

[36] Utrecht District Court, 6 April 2010, LJN: BM0846