The Future of Human Rights in an Urban World

Exploring Opportunities, Threats and Challenges

Edited by Thijs van Lindert & Doutje Lettinga

The Strategic Studies Project   *initiated by Amnesty International Netherlands*

Changing perspectives on human rights

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www.amnesty.nl/endtimes

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Benjamin Barber is the author of *If Mayors Ruled the World* (2013), and sixteen other books, a Senior Research Scholar at the Center on Philanthropy and Civil Society at The City University of New York, Founder and President of the NGO CivWorld which is leading the project for a Global Parliament of Mayors as part of the Interdependence Movement. He is also Walt Whitman Professor of Political Science Emeritus at Rutgers University.

Esther van den Berg is a political scientist with an interest in civil society studies and human rights. At University College Roosevelt (Utrecht University), she is a researcher on the project 'The added value of human rights' on human rights cities. She wrote a dissertation on the influence of NGOs on Dutch human rights policy (2001). She has been working for the Netherlands Institute for Social Research (SCP) since 2003. She published on Europeanization, citizenship, and Dutch civil society.

Stephen Graham is the author of Cities under Siege (2011). He is Professor of Cities and Society at Newcastle University's School of Architecture, Planning and Landscape. Professor Graham's research centres on relations between cities, technology and infrastructure, urban aspects of surveillance, and connections between security, militarisation and urban life.

Erella Grassiani is a post-doc researcher at the Centre for Urban Studies and the Department of Human Geography, Planning and International Development Studies and a lecturer at the Department of Sociology and Anthropology at the University of Amsterdam. Her research is part of a wider project on privatization and globalization of security, and focuses specifically on Israel/Jerusalem and security mobilities.

Marie Huchzermeyer is Professor at the School of Architecture and Planning and the University of the Witwatersrand, Johannesburg. Her research addresses questions of policy and rights as they relate to informal settlements, private rental stock and housing more broadly, and more recently the intersection between urban planning and human rights.

Rivke Jaffe is an associate Professor at the Centre for Urban Studies and the Department of Human Geography, Planning and International Development Studies at the University of Amsterdam. She is currently leading a five-year anthropological research program on public-private security assemblages in Kingston, Jerusalem, Miami, Nairobi and Recife.

Parag Khanna is the Director of the Hybrid Reality Institute, Senior Fellow at the New America Foundation, Adjunct Professor at the Lee Kuan Yew School of Public Policy at the National University of Singapore, Visiting Fellow at LSE IDEAS, Senior Fellow at the European Council on Foreign Relations, and Senior Fellow at the Singapore Institute of International Affairs. Khanna wrote several articles on the rise of (mega)cities, see: www.ParagKhanna.com.

Margaret Kohn is a Professor of Political Theory at the University of Toronto. She is the author of *Radical Space* (Cornell University Press) and *Brave New Neighborhoods: The Privatization of Public Space* (Routledge). Her new book project is entitled: *Local Justice: Place, Property, and the Right to the City*. You can follow her on twitter via @peggy443.

Doutje Lettinga is a Research Fellow at the Strategic Studies Project of Amnesty International Netherlands.

She holds a doctorate in Sociology at the VU University Amsterdam and has master degrees in History and Political Science of the University of Amsterdam. Prior to joining Amnesty, Doutje worked as a researcher and consultant, including for Human Rights Watch, the EU Fundamental Rights Agency, and the European Commission. She is a Senior Fellow of Humanity in Action.

Thijs van Lindert is a Research Fellow at the Strategic Studies Project of Amnesty International Netherlands. He obtained a Master in both Sociology and Political Science at the University of Amsterdam. Thijs is a Senior Fellow of Humanity in Action and participated in the Diplomatic Studies Program of the Clingendael Institute in The Hague.

Barbara Oomen is Dean of the University College Roosevelt and Professor of The Sociology of Rights (Utrecht University). She is the project leader of the Platform31 project 'The added value of human rights' on human rights cities, and the former chair of the Netherlands Platform on Human Rights Education. Her research concentrates on the interaction between law and society, and she is the author of _Rights for Others: the slow home-coming of human rights in the Netherlands_ (Cambridge University Press, 2014).

Gregory Smithsimon is associate Professor of Sociology at Brooklyn College, CUNY. He is the author of _September 12: Community and Neighborhood Recovery at Ground Zero_ (NYU Press, 2011), and, with Benjamin Shepard, of _The Beach Beneath the Streets: Contesting New York City's Public Spaces_ (SUNY Press, 2011). His current project is 'Liberty Road: African American Middle-Class Suburbs Between Civil Rights and Neoliberalism', which focuses on how suburban space reframes political conflicts for middle-class African Americans.

Sharon Zukin is Professor of Sociology at Brooklyn College and the CUNY Graduate Center. Zukin is the author of several books on cities, culture and consumer culture, including including _Naked City: The Death and Life of Authentic Urban Places_ (Oxford University Press), The Cultures of Cities (Blackwell), _Landscapes of Power_ (University of California Press), and Loft Living (Rutgers University Press). Her books have received the C. Wright Mills Award and the Jane Jacobs Award for Urban Communication, and she has received the Robert and Helen Lynd Award for career achievement in urban sociology.

Why are human rights mostly targeted from an (inter) national perspective? Is there a blind spot for human rights at the level of cities? In which ways – positively and negatively – might global urbanization and the rise of megacities affect human rights? How can we improve international frameworks so that human rights are protected or promoted by cities? Is there a need for a paradigm shift to address the huge human rights challenges manifesting in cities all around the world?

Connecting human rights with the urban world

The reason for this publication on cities and human rights is that mass urbanization and the growth of existing and emerging cities with significant economic and political power might have far-reaching implications for human rights. The largest of these cities - known as 'megacities' - are and will continue to be mostly in the developing world. The massive influx of people into cities takes place against a background of geopolitical, economic, social and technological developments that together pose new challenges and opportunities for the global human rights regime and the daily lives of people. In order to be effective and meaningful, human rights NGOs must understand and anticipate the consequences of a world in which by 2050 two thirds of the world's population lives in cities.

Although the effects of urbanization on the environment and human development have triggered some studies, cities and human rights are still separate fields in academia as well as in the everyday work of practitioners. Sociologists and geographers with an interest in cities and urbanization hardly approach such trends from a rights perspective. Urban planners, politicians and policymakers only marginally integrate human rights in their work. In turn, human rights scholars and advocates have generally turned a blind eye to what happens at the city level. International human rights NGOs like Amnesty International, born and raised in a 20th century world marked by nation states and US hegemony, function within the confines of a state-centered paradigm. They tend to focus their activism and advocacy almost exclusively on states or multilateral institutions like the United Nations, even though non-state actors such as multinational corporations have in recent years received increasing attention for their impact on human rights.

These disciplinary and professional boundaries are unfortunate because human rights practitioners can benefit from insights generated in other fields into urbanization, socio-economic inequality, privatization of public space and security, or the role of cities in global governance. Mapping the human rights implications of these larger trends will help practitioners think ahead, understand and seize opportunities, and prepare for future challenges so their methods and approaches are effective in a world increasingly defined by cities, mayors and urban movements.

In turn, local politicians and policymakers would benefit from a better understanding of human rights so they can integrate a rights perspective in public-policy responses to present-day challenges and urban planning. After all, cities have a duty to defend human rights. As Thomas Hammarberg, then Human Rights Commissioner of the Council of Europe and previous Secretary General of Amnesty International (1980-1986), stated in a debate at the Congress of Local and Regional Authorities in 2011:

"While governments and national parliaments ratify international treaties on behalf of the state, the day-to-day work of implementing human rights standards often rests on the shoulders of local and regional authorities. They too are bound by these agreements. Local and regional authorities are often directly responsible for services related to health care, education, housing, water supply, environment, policing and also, in many cases, taxation. These matters affect people's human rights, not least their social rights."

Hammarberg rightly emphasized that the observance of human rights is also a local matter. But while his speech gave the debate on 'human rights and the city' a promising start, this debate now seems to have come to a standstill or has at least diffused to the margins. Even though some institutions still focus on the integration of rights into local policymaking, service delivery, and administrative practices, such as the EU Fundamental Rights Agency or UN-Habitat, these initiatives are scarce and hardly look beyond present-day developments.

With this collection of critical essays on cities and human rights, the Strategic Studies Project of Amnesty International Netherlands aims to reinvigorate a necessary debate that should help put human rights (back) on the urban agenda and make human rights practitioners (re)discover cities as important targets. We asked academics and practitioners from varied (disciplinary, regional and professional) backgrounds to reflect on developments they deem important for their future implications for human rights. The result is a collection of critical, thought-provoking and at times disturbing essays on different but often intersecting developments taking place in and around cities that pose perils to and offer opportunities for human rights.

Cities: challenges and opportunities for human rights

Urban policymakers have not been entirely blind to human rights. As Esther van den Berg and Barbara Oomen show in their contribution to this collection, international human rights made their entrance on the urban agenda around the turn of the century. Over time, cities and human rights have grown closer, partly as a result of the focus of international human rights bodies on the local implementation of universal norms and standards, the decentralization of social policy and city branding strategies. In their essay, the authors describe a trend in which cities worldwide increasingly identify themselves as 'human rights cities'. While approaches and motives vary, several cities explicitly base urban policies on (parts of) international human rights treaties. It remains to be seen to what extent this trend will materialize beyond city marketing initiatives, but the fact that cities like San Francisco are ratifying international human rights treaties and committing themselves to binding norms that national governments still eschew, is a promising sign that cities are becoming independent human rights players.

If there is anyone who believes in the unfulfilled potential of cities in global governance, it is Benjamin Barber. The author of the thought-provoking book *If Mayors Ruled the World* (2013) and the second contributor to this volume argues in his essay that cities are much better suited to respond to global challenges such as environmental degradation or immigration than nation states. In his essay, Barber gives three theoretical arguments why he believes cities, by operating *glocally*, are more likely to protect and defend global human rights agendas than nation states, whose effectiveness is undermined by inter-state competition, parochial interests, and territorial sovereignty. Barber illustrates his arguments with concrete and convincing examples of cities taking a lead in defending environmental rights and the rights of minorities and particularly migrants. Facing the practicalities of undocumented migrants in their midst who contribute to urban economies, cities across the world start issuing 'city visas' to undocumented migrants. Herewith immigrants are recognized as citizens with (some) rights and granted access to public services, something that national governments are unwilling to do.

Barber is not the only one who signals that cities are often more progressive than states in certain human rights domains. In his interview with Thijs van Lindert (the third contribution), the International Relations scholar Parag

Khanna likewise points to the positive influence cities can have on the rights of migrants. Another relevant development for human rights that Khanna articulates is that megacities, which hold more than 10 million people, are becoming important diplomatic actors alongside states. Around 1950 New York was the only city with over ten million inhabitants. Today, there are more than twenty of these megacities around the world, including Mexico City, São Paulo, Delhi, Mumbai and Tokyo with a population density outnumbering 20 million. According to Khanna, these global hubs and megacities increasingly become influential diplomatic actors due to their political, demographic and economic power, sometimes conducting their own foreign policy ('diplomacity') independent from the national government. Khanna pleas for 'a geographical frame shift' to the level of cities. If human rights NGOs want to be effective in promoting human rights, he argues, they must reorient their strategies to include city officials as new targets. They should also participate in intercity networks as new forums in addition to or replacing traditional channels such as states and the UN.

While cities provide ample opportunities that human rights practitioners should seize, our authors also point at the human rights risks of urbanization and the emergence of megacities. One of these worrisome developments is the growing inequality that manifests itself in cities. On the one hand, the wealth of nations is intimately linked to the prosperity of their cities, just like the increasingly multipolar world is linked to the rise of megacities in non-Western parts of the world. Jonathan Kalan (2014) made a strong argument in that we need to underline how megacities drive economies, diminish poverty, and empower residents by providing new opportunities, raising incomes and increasing social mobility. By only emphasizing their economic, social, and environmental problems, we may discount the profound and positive impact they have on people's lives and the capacity their residents possess. On the other hand, when accompanied with weak economic growth and non-existent or ineffective distributive policies, rapid urbanization has been associated with poverty and an increasing gap between the rich and poor within countries, not only in terms of income but also in social, cultural, spatial and

political terms. Particularly in the Global South - despite the growth of states like Brazil, India, South Africa and China - mega slums, poverty and other urban divides are persistent phenomena that continue to endanger socio-economic rights to water, health, education and housing (UN-Habitat 2011).

The fourth and fifth essays address the implications of urbanization and inequality for the rights of citizens, in specific the right to housing. The authors of these essays both examine this issue through a moral philosophical lens. Marie Huchzermeyer investigates how the concept of *The Right to the City* of French urban sociologist Henri Lefebvre (1901-1991) may be a helpful instrument for human rights practitioners and urban movements to counter forced evictions. She illustrates how Lefebvre's ideas can be used to mobilize for laws and regulations that ensure the rights of the urban poor to affordable housing, municipal services, and participation in urban planning. Margaret Kohn, in turn, draws on Lockean liberal theory to balance private property rights with the human right to adequate housing. She makes a strong argument that, given the rapid growth of megacities and the precarity of life in informal settlements in particularly the Global South, the recognition of this basic right should become a human rights priority. With their contributions, both authors show that moral theories can deepen and strengthen the defence of the rights of people living in informal settlements.

While Huchzermeyer and Kohn point out how urban expansion is often characterized by informality and unplanned settlement, the privatization of public space is the central aspect in the sixth essay of this volume. Sharon Zukin and Gregory Smithsimon make a plea for the full, indiscriminate access to public space as a condition for exercising political rights. Taking New York as example, the city that gave rise to the global *Occupy* movement, they show that privatization of public squares, parks and other urban places is a global trend that endangers rights to freedom of speech and freedom of assembly. They call on human rights NGOs to support urban movements that mobilize against the privatization of urban places "as spaces in which human rights are practiced".

The topic of the two last contributions to this volume is the securitization of cities. In his essay, Stephen Graham focuses on the trend of militarization of urban security. Graham shows how cities across the world are copying and learning from each other's security approaches that increasingly rely on military techniques and involve private security companies. Drawing on post-colonial theories, he argues that in the name of security the privileged use pre-emptive policing techniques as a means to control and suppress marginalized groups; such as (descendants of) migrants living on the outskirts of Western cities who are framed as 'dangerous others'.

The essay of Rivke Jaffe and Erella Grassiani dovetails with that of Graham, similarly focusing on the privatization of urban security. They argue this privatization "often involve[s] a trade-off between security and human rights, including the rights to privacy, mobility, and equal treatment before the law". Using Jerusalem and Kingston as urban case studies, they illustrate how the outsourcing of urban policing to private security companies negatively affects human rights. While certain groups can purchase public security, others are left in limbo or subjected to surveillance and the use of force by security companies. They point at the judicial flaws and consequent challenges for human rights advocates of holding underregulated, in-transparent firms accountable for potential abuses.

Without aiming for completeness, we have gathered a wide range of perspectives on possible human rights threats and opportunities of our increasingly urban world. However diverse, all contributions demonstrate that the global emergence of cities brings important human rights consequences to the fore. By mapping such consequences, this volume illustrates that a state-centered paradigm no longer suffices to come to terms with the challenges of tomorrow. It is time for a conversation amongst human rights practitioners, city officials and urban planners on how to improve methods and approaches to ensure the rights of urban dwellers across the world. The authors show that simple binaries between 'North' and 'South' or 'global' and 'local' are not helpful in understanding the world of tomorrow. Processes of migration, urbanization, privatization and militarization affect people everywhere and might actually be interrelated. We need to scrutinize more in-depth the relationship between positive trends of rights-promoting, cosmopolitan cities and negative trends of segregation, privatization and militarization of security in these very same cities, and their varied and imbalanced implications for the rights of people across the globe.

Whether we live in Delhi or Dhaka, Amsterdam or Ankara, Los Angeles or Lagos, Singapore or São Paulo; we have more in common than we might think. Most of all, we will all benefit from a decentralization of human rights and globalizing good urban human rights practices.

Thijs van Lindert and Doutje Lettinga

Esther van den Berg & Barbara Oomen

Towards a Decentralisation of Human Rights: the Rise of Human Rights Cities

All over the world, more and more cities explicitly base their policies on international human rights law. Whilst these human rights cities differ in size, approach and focus, they all hold the promise of strengthening social justice at the local level, and realizing abstract human rights ideals.

Introduction

In a globalizing world, cities are both "magnets of hope" and sites of strong social injustice and inequality (Meyer 2009: 10). As the habitat of more than half of the world population, cities are the places where social problems become manifest and have to be solved (Barber 2013). With the evolution of the international human rights system and its growing emphasis on rights implementation, cities have increasingly come to occupy centre stage as the logical loci of human rights realization. Whilst human rights can hardly be considered to be applied universally in local settings worldwide, their local relevance has been noticed by both international organizations and cities worldwide. Such cities increasingly manifest themselves as human rights cities, with the strong support of international organizations. This contribution discusses the rise of international human rights in urban policies and the prospects that this offers for localizing human rights.

From global ideals to local practice: evolution of the international human rights regime

Since the adoption of the Universal Declaration of Human Rights in 1948, the development of the international human rights regime has slowly evolved from the setting of norms to their implementation. Initially, much of the energy of the world community was dedicated to the formulation and adoption of binding human rights treaties. In 1950, member-

states of the Council of Europe adopted the European Convention on Human Rights and Fundamental Freedoms. In 1966, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights were formulated in the realm of the UN. These documents were accompanied by a myriad of other human rights treaties and resolutions, both global and regional in scope, containing rights for all and for specific vulnerable groups (women, children, persons with disabilities), and including both comprehensive texts as well as categorical texts (Convention against Torture, Convention on the Elimination of All Forms of Racial Discrimination) (Brems 2014, forthcoming).

In due time, more emphasis was placed on actual rights realization. The 1993 World Conference on Human Rights in Vienna was a focal point in time when states recognized the importance of human rights implementation and localization, and agreed on additional monitoring mechanisms to safeguard human rights. Among other things, states agreed to draw up national action plans for the promotion and protection of human rights, and to establish national human rights institutions to monitor human rights. States also acknowledged the importance of human rights education and agreed to the strengthening of international supervision by special rapporteurs and the appointment of a UN High Commissioner for Human Rights (Vienna Declaration and Programme of Action 1993).

The enhanced attention for human rights implementation also led to the expansion of the scope and core content of human rights, especially in the field of economic, social and cultural rights. Monitoring bodies would delineate the minimum obligations that states have in guaranteeing specific rights. For instance, the 'right to the highest

attainable standard of health' in the International Covenant of Economic, Social and Cultural Rights was outlined in a general comment of the supervising Committee to the covenant in 1999. The Committee explained that this right is not confined to the right to health care, but also:

> "(…) embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment" (as cited by Toebes 2012: 115).

These exercises to specify human rights and human rights obligations led to more attention for the role of actors other than the national government in the implementation of human rights, including NGOs, private or semi-public service providers and businesses. It also paved the way for seeing local authorities, which are often responsible for the delivery of services, as relevant duty bearers that have their own responsibility to uphold human rights obligations. As to the formal legal underpinnings, human rights treaties seldom explicitly refer to actors other than the national government as being bound by the obligations in the treaty concerned.[1] Local governments, however, are a constituent element of the national government and the national government has delegated tasks to them which subsequently fall under the realm of rights protection (International Council on Human Rights Policy 2005: 20). In light of the global trend of decentralization of government responsibilities such as health care services, housing and

education, local authorities have increasingly become duty bearers in their own right. As a result, UN supervisory bodies[2] and regional institutions have explicitly recognized the role of local authorities in giving effect to human rights in their comments, statements and declarations. The Council of Europe's then Commissioner for Human Rights Thomas Hammarberg (2009), for instance, stated that both "regional and local authorities have a key role and a great responsibility for implementing human rights". One year later, the Council of Europe's Congress of Local and Regional Authorities adopted a resolution[3] confirming that:

> "Protecting and promoting human rights is a responsibility shared by all the different tiers of authority within each Council of Europe member state. Because of the close relationship between citizens and their elected representatives at this level, local and regional bodies are best placed to analyse the human rights situation, identify the relevant problems which arise and take action to solve them."

Another important indication of the recognition of human rights obligations of local authorities is set out in case law. Illustrations are found in cases before the European Court of Human Rights and in national courts. In *Assadnize v. Georgia,* for instance, the ECHR discussed 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."[4]

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1   The Convention on the Rights of the Child and the Convention for the Rights of Persons with Disabilities are an exception. The Convention on the Rights of the Child states 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" (Article 3), whereas the Convention for the Rights of Persons with Disabilities states that "the provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions" (Article 4 (5)).

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2   For references of UN treaty bodies and special procedures to the obligations of local authorities, see Meyer (2009: 11-13).

3   Council of Europe (2010) 'Resolution 296', Congress of Local and Regional Authorities.

4   ECHR (2004) 'Assanidze vs Georgia', Application no. 71503/01, 8 April.

Another example is a landmark case adjudicated by the South African Constitutional Court, in which the Cape Metropolitan Council was summoned to implement a program to realize the right of access to adequate housing for people in the area. The court based its ruling on the International Covenant on Economic, Social and Cultural Rights and recognized the right of access to adequate housing (see also Margaret Kohn's chapter on this) as the minimum core content of the right to an adequate standard of living.[5]

In sum, these developments in the human rights regime, coupled with the global governmental shift towards decentralization, have brought cities and human rights closer together. Equally important, however, are the enhanced self-confidence and international profile of cities, as described by Benjamin Barber in this volume. It is cities' participation in international networks like the United Cities and Local Governments (UCLG) that strengthens their international profile and autonomy. Within these networks, urban actors become acquainted with international human rights norms, and find the support and inspiration to actually integrate them in their policies.

Beyond a state-based approach: the rise of human rights cities

Thinking about cities as the place where rights are to be realized is not entirely new. In an often-cited statement in 1958, Eleanor Roosevelt, as Chair of the commission that drew up the Universal Declaration of Human Rights, underlined how human rights begin close to home, in the places where we live, work and go to school. "Unless these rights have meaning there, they have little meaning anywhere," she stated.[6] A decade later, from the angle of critical scholarly thought, the sociologist Henri Lefebvre introduced the idea of the Right to the City or *La Droit*

à *la Ville* (1967). Marie Huchzermeyer will give a more thorough analysis of Lefebvre's theory in her chapter for this book, but central elements in Lefebvre's argumentation were democratization and participation. In seeking to counterweigh the dominance of capitalism and business interests, citizens should have a say in the process of urbanization, in order to create a just, accessible and enjoyable city (Oomen & Baumgärtel, forthcoming). As we saw above, it would take a number of decades, and the shift from standard-setting to implementation that came with the end of the cold war, before human rights and cities actually found each other. Whereas human rights cities come in many shapes and forms, they will be defined here as cities that explicitly refer to international human rights norms in their activities, statements or policy.

The term 'human rights city' itself has a history that goes back to the late 1990s, when it was introduced by the New York-based NGO called the People's Movement for Human Rights Learning (PDHRE). The organization saw the integration of human rights in local communities as a way to give disenfranchised and vulnerable groups a tool to improve their living conditions. The PDHRE developed a methodology to develop a 'human rights city': a local learning community, including citizens, local civil society, local governments and professionals, jointly working on a just city, with human rights as guiding principles. Central elements to this approach were human rights education, cooperation between stakeholders in a steering group, the formulation and implementation of action plans, and the evaluation of human rights activities.

The first city that put this methodology in practice was Rosario, Argentina. The history of the military dictatorship (1976-1983) and the succeeding economic crisis provided the incentive (past and present injustices) and infrastructure (the presence of human rights NGOs) to start this endeavour. In 1997, representatives of civil society and the local government adopted a declaration in which they promised to make Rosario a human rights city. In succeeding years, more cities around the world adopted the PDHRE's methodology of becoming a human rights city, including in countries like Mali, Kenya, Ghana, India,

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5   Constitutional Court of South Africa (2000) 'Government of the Republic of South Africa and Others v. Grootboom and Others', 4 October.

6   Remarks made by Eleanor Roosevelt (1958) at the presentation of booklet on human rights, *In Your Hands*, to the UN Commission on Human Rights, New York, March 27, available at: http://en.wikiquote.org/wiki/Human_rights.

Brazil and Canada. The first European city working with the PDHRE methodology was the city of Graz, Austria. Here, in 2001, the city council unanimously decided to become a human rights city. In doing so, it was supported by an active academic institution in the field of human rights education, committed governors and an involved civil society (Marks, Modrowski & Lichem 2008: 108-122; PDHRE 2007; Van Aarsen et al. 2013).

The multiple dimensions of human rights cities

Whereas more and more cities have discovered human rights as a frame of reference over the past decades, not all of them have followed the path proposed by the PDHRE. In considering how cities become human rights cities, why they do so and determining what the driving forces are behind the process, it is the variety in approaches to basing policies on international human rights that is most striking.

Some cities, for instance, adopt a formal declaration stating their dedication to human rights, or sign up for international instruments like the European Charter for the Safeguarding of Human Rights in the City.[7] In addition to this, they can institutionalize their support by forming a Human Rights Council, as is the case in Graz. Other forms of institutionalization are human rights monitoring, or explicit attention for human rights in the municipal budget; as is the case in Gothenburg, Sweden. In cities that adopt the PDHRE methodology, the efforts are generally largely driven by civil society, which can underscore the reference to rights with a variety of activities: human rights days, training sessions, organizing human rights activities or festivals.

Some cities, like Utrecht in the Netherlands, base their policies on the general idea of human rights and seek to incorporate all human rights instruments in their local

policies (Gemeente Utrecht 2011). Others concentrate their efforts on one particular subset of rights. Barcelona, for instance, as one of the first human rights cities in Europe and the driving force behind the human rights cities movement, mainly concentrated on combating polarization and discrimination (Grigolo 2010). Many of the European cities that focus on combating racism have united in the European Coalition of Cities against Racism (ECCAR). Other networks of cities work together on inclusion for the disabled, fair trade, the rights of the child or giving shelter to refugees as a shelter city. With its dedication to strengthening women's rights, San Francisco became the first American city to independently ratify CEDAW, with a number of other US cities following suit (Davis 2007). In this case, the Women's Convention was adopted in San Francisco via a local ordinance.

Just like manifestations of human rights cities vary substantially, so do motivations to explicitly base policies on international human rights. In many instances, local authorities are driven by a desire to assert their autonomy and to pursue more humane social policies than those ordained by the central government. The UK city of York offers a case in point: at a time of strong rights resistance in the UK, directed against the Human Rights Act, the city intentionally chooses to frame local policies in terms of international human rights. It also acts as a shelter city for refugees, in order to mitigate increasingly severe national policies (Van Aarsen et al. 2013). Others see human rights – whether as a whole or a specific subset – as a useful baseline for policymaking, or an umbrella under which to unite different policy interests and organizations. Yet others consider reference to rights as a way to distinguish their city from others, a tool in the process of city marketing that has become an important feature in urban policies.

Of course, cities are hardly homogeneous entities. The driving forces behind the reference to rights in urban policies differ per city. At times it is civil society, with strong support from academia. At others, it concerns members of the city council, an elder(wo)man or a mayor, sometimes with the involvement of charitable foundations. Upon close examination, as our research points out, it

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7   European Conference of Cities for Human Rights (2000) 'European Charter for the Safeguarding of Human Rights in the City', available at: www.idhc.org/cat/documents/Carta_ingles.pdf.

is often one individual who proposes the emphasis on human rights in local policies and plays a key role in driving the process forwards. At the same time, all the cities that have successfully identified themselves as a human rights city over time have done so because of the involvement of a broad coalition of governmental and non-governmental actors. In all cases, there are strong ties to similar initiatives at the national and the international level. The EU Agency for Fundamental Rights (FRA) joined-up governance project forms an example of such a network connecting cities around the theme of human rights: it connects European cities and stimulates shared policymaking in the field of fundamental rights.[8]

Conclusion: the future of local human rights

The rise of human rights cities demonstrates that international human rights norms have landed in localities all over the world. In spite of the fact that - from a legal point of view - local authorities have an obligation to respect, protect and fulfil human rights, the awareness of the importance of human rights at the local level is far from commonplace. There is a widespread 'awareness gap' - not only in cities, but also in national administrations (Accardo, Grimheden & Starl 2012). It means that for now, human rights cities comprise a modest group of forerunners in the global movement of cities.

Nevertheless, cities hold the potential to become hubs of rights realization at a much larger scale in the future. This is due in part to the turn towards positive obligations and social and economic rights that human rights law has taken over the years. Just as important, however, are the increase in decentralization of tasks, and in the powers, diversity and self-awareness of cities worldwide.

With the diversity of populations and interests at the local level, and the primary responsibility for serving these populations, cities will increasingly refer to human rights as the "the lingua franca of global moral thought" (Ignatieff

2001: 53). In referring to international human rights as a basis for their policies, cities can also demarcate their autonomy, and become part of a powerful network of global actors instead of being subservient to the nation states. This process of 'glocalization' also entails a new type of citizenship that straddles the local and the global.

What, to conclude, would be needed to stimulate the reference to and the application of human rights at the local level? For one, this is an increase in clarity on the legal obligations that cities have towards the respect for, protection of and fulfilment of human rights. More important is a reduction of the awareness gap and a strengthening of human rights education. In this process, contacts between local and international actors are key, and can contribute to a culture of human rights. Such a culture, paradoxically, will have to align itself with local traditions and values in order to be truly effective (Merry 2006). In Nuremberg, for instance, the legacy of the Second World War made it logical to strongly emphasize combating discrimination. In the Dutch city of Middelburg, with a long tradition of inclusion of people with disabilities in education and the workplace, this became the focus of the human rights efforts. In addition to the creation of a human rights culture, it is important to institutionalize urban attention for human rights, whether this occurs via a human rights council, human rights monitoring or human rights budgeting. This, after all, ensures that the emphasis on human rights does not disappear when individuals change jobs or elections are held.

The importance of emphasis on these processes lies in Eleanor Roosevelt's words quoted above: if human rights do not have meaning at the local level, they cease to have meaning anywhere. No authority and no locality is better placed to realize human rights, at this juncture in time, than the city.

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8   fra.europa.eu/en/project/2011/joined-governance-connecting-fundamental-rights.

The Future of Human Rights in an Urban World | Exploring Opportunities, Threats and Challenges

Benjamin Barber

Cities as Glocal Defenders of Rights

In a world of dysfunctional states ever less capable of defending human rights, cities - once thought too parochial for the job - are increasingly taking on the responsibility. In domains such as immigrant rights, climate justice and minority rights it is not states but metro-regions and their intercity networks that are defending rights 'glocally'; both locally and globally.

Introduction

I have made the argument in my book *If Mayors Ruled The World* (2013) that in this era of interdependence and globalization - where the principal challenges are tough cross-border problems such as climate change, pandemic disease, immigration, terrorism and anarchic (or monopolistic!) global markets in capital, labour and commodities - traditional sovereign nation states are increasingly unresponsive. And that in the face of this growing dysfunction nationally, cities are proving that they can be sites of democracy, pragmatic and problem-solving; that when they work together, they can actually solve some of these difficult problems that leave states paralyzed. Forget presidents and prime ministers; mayors are the ones who get things done in an interdependent world.

But what about human rights? Can 'parochial' cities really do better than 'universal' states in upholding universal human rights? We know that democracy itself can be tested by rights claims: majorities sometimes ride rough-shod over the rights of minorities and individuals (the so-called 'tyranny of the majority'). We know that in pursuing justice and equality for the greater number, we may encroach on the personal liberty and private property of the not-so-many (the classical struggle of equality vs. freedom). So will a pivot from states to cities, from presidents to mayors, help

or hurt human rights and the protection of minorities?

The return of the polis and the need for inversion of the rights model

I want to propose that cities can not only represent democracy and pragmatism effectively, but can and do protect human rights no longer adequately protected by nation states. The striking irony is that cosmopolitan values and universal rights once deemed to be secured by 'universal' states are today better served by 'parochial' cities. Think of gay rights or the rights of undocumented immigrants: are they better protected in cities or in the US Congress? Think of the right to a sustainable environment: is the action taken at the national or the municipal level?

There are good reasons for this inversion of the old model of rights where higher jurisdictions did better than inferior (lower) jurisdictions with respect to civil rights, where 'parochialism' meant reactionary states and localities, and cosmopolitanism meant national standards and ideals. For today cosmopolitanism has been returned to the polis and it is nations that are looking parochial in the face of an interdependent and global world. There are three compelling reasons for the 'inversion' rooted in political theory which I have examined at length in my *Strong Democracy* (1984), and *The Conquest of Politics* (1988): (1) the city's priority of democracy, (2) urban diversity, and (3) the connection between urban public goods and global human rights. Let me briefly explain these three points.

The priority of democracy

First, a belief in the sanctity of rights, embedded in God or nature, is a necessary foundation for establishing democracy and as such is, theoretically speaking, pre-

political; prior to the social contract. But in practice, an effective human rights regime in which minorities and individual autonomy are protected depends on democracy. There is a long tradition of political thought deriving from T. H. Green (1986[1879]) that understands rights in terms of a form of positive freedom that is rooted in democracy in which my work stands.[1] The *claim* to human rights precedes democracy, but democracy precedes the entrenchment and securing of human rights. One of the reasons why human rights have fared so poorly in emerging societies or in the countries experiencing the Arab spring is that rights claims are being aggressively but unsuccessfully advanced under conditions where democracy is weak or missing. Rights without democracy is no more successful than democracy without citizens. Now if democracy and citizenship are more effectively manifested in cities than at higher levels of government, then far from being inhospitable to human rights, democratic cities are their ideal home. This abstract argument is strongly validated by the role cities are playing in protecting the rights of gay and transgendered persons, and in moving to protect wholly defenceless immigrant individuals, families who, when they are undocumented, live almost exclusively in the world's cities. Hamburg is pioneering a system of urban visas that allow undocumented workers to be registered, while New York, under new mayor Bill de Blasio, is introducing a 'city ID program' that will give immigrants local rights. And not just in American liberal cities such as San Francisco and Denver is gay marriage being recognized, but in less likely places such as Mexico City.

Urban diversity
Second, the defence of individuals and minority rights flourishes best in communities that are themselves diverse and multicultural; defined by plurality and difference. Because it is difficult to secure minority rights at the national level, where the 'other' is a foreigner and solidarity impels exclusion, tolerance is to be sure especially prized in mono-cultural and homogenous communities. But it is far more prevalent in communities of diversity. Cities are

of course not only defined but constituted by diversity. As points of communication, transportation and exchange, almost always located on cross-roads (e.g. rivers, lakes, seas and intersecting valleys), they invite and embody multiculturalism and difference. Quite naturally then, they are inclined to tolerate and ever nurture diversity. Minorities, artists, solitaries, eccentrics and immigrants have classically always fled the more suffocating communities or the rural hinterland to the open air of the city to enjoy its anonymity, its essential diversity and its liberty.

Urban public goods and global human rights
Third, it is increasingly apparent that public goods - tolerance, free exchange, clean air and water, a sustainable environment, right to movement and mobility, and freedom from discrimination - also turn out to reflect global human rights. In the spirit of 'glocality', the interdependence of locality and globality on our interdependent planet, urban public goods and global human rights are co-extensive. Thus, as cities move to advance the agenda of equality, sustainability, fairness and opportunity, they are at the same time advancing a global human rights agenda that affects all humans everywhere. The rights in question here are the collective rights of humanity, often endangered by the private claims of individuals and corporations. Some would say this is a question of private or individual rights against community or collective rights, but collective rights is short-hand for the rights of each embodied in the rights of all. A sustainable environment, for example, is a necessity of life for every woman and man, not a right of a collectivity in which individuals do not participate.

Cities fostering rights of migrants and other minorities

We need not accept on faith as a matter of political theory these three general points about human rights and cities. We can find powerful empirical case studies that demonstrate how cities can and do defend both the rights of migrants and minorities and the common rights of global humanity. I will look briefly here at the rights of immigrants and at environmental rights.

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1   For more recent discussions, see Gret Haller (2012) and Todd Landman (2012).

It is perhaps uncontroversial that cities extend civil rights to gays and lesbians and license gay marriage, since cities have long been home to LGBT communities and the politics of gay rights are relatively uncomplicated, at least in cities such as San Francisco and Amsterdam. Yet Catholic Boston and Chicago have also pioneered gay rights (Baim 2008; Neyfakh 2011). Cities ultimately embody their rights policies in binding legislation, but the real battle is for public opinion and a democratic majority to enable such legislation, and it is in cities rather than nation states that this battle is being fought and won.

It is less obvious that cities should also defend the rights of immigrants, who when they are undocumented represent a heavy burden for cities to bear. Yet it is precisely municipalities that recognize and advance the rights of minorities under duress. They do so in their inventive approach to the growing population of those denoted as 'illegals' from the standpoint of national immigration authorities, but who nonetheless are an indelible feature of demographics in cities around the world. As with so many other challenges, cities are constrained to address the consequences of injustices and inequalities whose causes they cannot control. Global capitalism is responsible for egregious urban inequalities for which municipal governors bear no responsibility. Undocumented workers are the result of immigrants pursuing an economic logic of jobs associated with a global market economy that recognizes no national borders, yet they cross borders under conditions where their legal status is defined by a political logic of sovereign boundaries that treats them as illegitimate.

The city recognizes the economic logic and the civic reality represented by the presence of undocumented immigrants. Unlike the state (which both condemns and ignores them), it chooses to treat them as human beings with human rights deserving of recognition; and as a practical reality (they are here!) which must be recognized and addressed. A respect for rights grows out of practical concerns: immigrants hold jobs whether or not they hold visas, they drive cars without being licensed, they earn income without paying taxes, their children go to school and emergency rooms without having legal addresses, they obey the law (or

commit crimes) without being registered or having a known dwelling place. Fix these awkward realities, and cities for all practical purposes give the rights of immigrants recognition; whatever their status according to immigration laws.

From the collision of their legal status as undocumented outsiders and their practical status as urban denizens comes then a local and pragmatic solution to a thorny national problem: urban visas, or locally issued Identity Cards. These urban IDs bestow on immigrants the rights and responsibilities of residence and in theory can mean the issuing of licenses and other privileges and even a right to vote in local elections. The phrase 'rights and responsibilities' is more than a passing phrase: it points to the fundamental interdependence of the civic obligations by which democracy is constituted, and the rights which it protects. Though they have often been decoupled, we see in in what happens when immigrants are endowed with rights how the rights they enjoy are coupled with the responsibilities they take on (registering with the police, for example, and acquiring licences to drive) and vice versa. This is perhaps why some see the local path to urban visas as a potential national path to amnesty and eventual national citizenship as well (though the first neither entails nor depends for its success on the second).

Cities as opportunity for environmental rights

In the domain of collective rights, no issue is more urgent than that of climate change. Here too, as with undocumented immigrants, cities have stepped forward to do boldly what nation states have been too frightened or intransigent to do. Cities have manifested an enormous potential for ecological cooperation. Indeed, they are already actively engaged in seeking sustainability within and across their borders in a fashion that is aimed at securing universal human rights: the right to an environmentally sustainable world down through the generations. While such a 'third generation' right is not (yet) embedded in official human rights treaties, climate change can have a severe impact on human rights (such as the rights to life, health, food, water, housing,

development, and self-determination) officially adopted in the core conventions of international human rights law.

While nation states grow ever more dysfunctional, cities are increasingly proving themselves capable of deliberative democratic action on behalf of sustainability, both one by one but also through little known but highly effective intercity associations. If presidents and prime ministers cannot summon the will to work for a sustainable planet, mayors can. If citizens defined by the province and nation are spectators to their own destiny and tend to think ideologically and divisively, neighbours and citizens of towns and cities are active and engaged, and tend to think publicly and cooperatively. To think, that is to say, in terms of local public goods as they reflect and affect global human rights.

The devastation of extreme weather events like hurricanes Katrina and Sandy in the United States, and typhoon Haiyan in the Philippines notwithstanding, the UN sponsored Framework meetings aimed at nation states have never gained traction. The effort to improve and extend the Kyoto Protocol since Copenhagen in 2009 (COP 15), right through Cancun (2010), Durban (2011), Doha (2012) to Warsaw in 2013 (COP 19) has engendered only frustration. A less familiar story, however, is the story of the mayors who also gathered at Copenhagen (at the invitation of Copenhagen's mayor who had formerly been Denmark's environmental minister) as a kind of rump urban parliament to do informally city to city what nation states had failed to do in their formal (and futile) proceedings. Parochial towns aimed to protect the world from climate change and thus to secure global human rights which the nations holding global responsibility had failed to achieve.

With 80% of carbon emissions coming from within metropolitan regions, it was clear to the mayors that cities could make a difference even when states did nothing. And with 90% of cities built on water – rivers, lakes, seas and oceans – it was clear to them that if they did not act, they would likely become the first victims of climate change and ocean rise. They also knew that there were already intercity associations engaged in emission reductions. Their actions

converged with the activities of such intercity associations as ICLEI, the International Council for Local Environmental Issues; the C-40 Cities Leadership Group (now 65 cities); Europe's EnergyCities; and the EU's Covenant of Mayors, a group of European cities aiming to reduce emissions by 20% by 2020.

Formal city networks such as ICLEI and the C-40 are not the whole story. The key relationship between citizenship, democracy and environmental rights is reflected in not just these urban-based NGOs, but in concerned groups of citizens with environmental agendas that network through journals and on-line sites, citizens' collectives, as well as social 'movements' with arms such as 350.org, Bill McKibben's climate movement. Useful on-line informational websites such as UNHabitat.org, UntappedCities.com, Planetization.org and the Streetblogs network abound. In the crucial domain of sustainability, a few stand out, including the Garrison Institute's site, Grist.org, and especially Sustainable Cities Collective. City-to-city cooperation takes place then at the civil society and citizen level, on and off the web, where borrowing, imitation and shared experimentation are as important as formal governmental networking.

Individual cities have also pioneered emission-reduction programmes tailored to their particular urban environments that can be imitated by other cities with like circumstances. Three salient projects in Los Angeles, New York and Bogota have both embodied and been inspired by analogous programmes in other cities. In Los Angeles, the target was the port; in New York, the aging building infrastructure; in Bogota the car-clogged surface transportation system. These programmes are not technically 'rights' programmes, but in putting environmental sustainability for the planet at the centre of their concern, they in fact are powerful defenders of human rights to health, food, water and housing, for instance.

When Antonio Villaraigosa became mayor of Los Angeles, he moved to address carbon emissions. The port of LA – America's largest – was responsible for up to 40% of the city's emissions. Villaraigosa embarked on a programme

of public-private initiatives focused on getting container ships and tankers to turn off their idling diesel engines while in port. Over his term, Villaraigosa nearly halved port emissions resulting in citywide reductions in greenhouse gases of almost 20%.

In New York City during the same period, as part of his [PlaNYC program](#) calling for congestion fees and other green measures, Mayor Michael Bloomberg targeted the Big Apple's energy weak spot: a building infrastructure as old as any in the nation. It leaked heat in the winter and air conditioning in the summer. Bloomberg's insulation standards for new construction and mandatory retrofitting of old stock, along with some special measures like painting the city's ubiquitous black tar rooftops white, resulted in a significant reduction in energy wasted; perhaps 8% of total energy usage.

In Bogota, Colombia, inefficient public transportation on roads clogged with private cars not only wasted energy but created burdensome commuting times of three hours each way for workers from suburban favelas trying to get to inner city jobs. Mayor Antanus Mockus introduced a new system of surface transportation. The impact on both emissions and traffic flow of this rapid transit system was immediate: for roughly 5% the cost of building an underground, Bogota got a surface system that pulled people from cars to buses and cut commuting times by two thirds, improving working conditions for hundreds of thousands of commuters even as it curbed carbon emissions.

Three cities, three different city-specific approaches, each one focusing on the 'unofficial' right to sustainability and resulting in significant energy savings and reduced carbon emissions, all of them easy to copy and adapt to conditions in cities around the world.

Conclusion: towards a Global Parliament of Mayors

Cities and their networks can achieve much on behalf of rights. But we also need to recognize that much of what constitutes cross-border cooperation and informal governance grows out of voluntary actions undertaken by individual citizens and civic associations in response to common problems. The result can be innovative programmes that spread virally rather than legislatively, via choice and public opinion as well as mayoral leadership rather than via legislation or collective executive fiat. This kind of soft governance is crucial in changing actual human behaviour, and reflects the kind of bottom-up governance likely to make our unruly world modestly 'ruly'. Cities do not have to wait for states to achieve a measure of security or a degree of sustainability. Civil society does not have to wait for city government to take action. And citizens do not have to wait for civil society to work together to fight for their rights. The web stands ready, bypassing traditional forms of political association, a global network in waiting, informal for now, as formal over time as we choose to make it.

To give substance to the struggle for global human rights, the cooperation of cities and citizens needs an edifice, a megaphone for the voice of mayors and a magnifying glass for the rights of citizens. For this reason, I have been arguing for a Global Parliament of Mayors (GPM) as a keystone in the rising arch of inter-city networks already in place. An institution that can give force to the rights claims made by urban communities in humanity's name.

The idea of a GPM is set forth in the final chapter of *If Mayors Ruled the World* (2013) in considerable detail, and I will not elaborate it here. It envisions a bottom-up and opt-in institution whose success will depend on consensus from participating cities and on the shaping of national interests by global public opinion. Its aim would be to give urban public goods a global reach and make the right to sustainability, affecting so many human rights already recognized in international law, universal. Inasmuch as its success would depend more on public opinion than on mandatory legislation, on soft bottom-up governance than on hard top-down government, it would not have the look or feel of some vast new global bureaucracy. It would not be a kind of fearful 'world government' patrolled by black helicopters and bent on creating some vast European Commission style regulatory agency for a supine planet. On the contrary, with a majority of cities in which the global

majority live agreeing on common practices and opting into common regulations, the outcome would be a strong form of local democracy with a global face. Rights achieved by consensus, not force.

The good news about the GPM is that it is already an idea city mayors in the US, Latin America, Europe and Asia are exploring. Meetings have been held in Seoul, Korea and New York with the participation of mayors as well as NGO and other civic leaders, and further meetings are planned for Amsterdam in September 2014 and in other cities. This could make a pilot parliament possible as soon as 2016. The GPM is an idea with legs, and the legs belong to standing mayors hoping to walk the talk of collaboration, to take the reality of intercity cooperation to a new level where the defence of

universal rights is in the hands of the world's municipalities where over half the population dwell.[2]

The obsession with power and ideology has led many today to forget that politics is instrumental; the road to securing human rights, a way to create community, and the condition for facilitating democracy. The local politics of the city have always been more about these simple goods that reflect essential rights, as I have illustrated in this article by the case of City IDs for undocumented migrants. City-dwellers are citizens, and citizens are people endowed with both rights and responsibilities. The local commons is the home to our global rights. When cities work democratically and effectively, those rights can be secured in ways the global state system no longer can guarantee.

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2   More information can be found at:
www.InterdependenceMovement.org.

Thijs van Lindert[1]

Megacities as Diplomatic Powers in a Neo-Medieval World: Interview with Parag Khanna

"*The 21st century will not be dominated by America or China, Brazil or India, but by the city. In an age that appears increasingly unmanageable, cities rather than states are becoming the islands of governance on which the future world order will be built. This new world is not - and will not be - one global village, so much as a network of different ones.*" Parag Khanna, '[Beyond City Limits](#)' 2010

Introduction

These are the opening lines of a *Foreign Policy* article written by Parag Khanna. According to this International Relations scholar, we are entering a new world marked by a patchwork of cities that are not only economic strongholds but increasingly also competing for political power. He therefore urges all those interested in social change, including human rights organizations, to turn to cities as new diplomatic actors. In his words: "Neither 19th-century balance-of-power politics nor 20th-century power blocs are useful in understanding this new world. Instead, we have to look back nearly a thousand years, to the medieval age in which cities such as Cairo and Hangzhou were the centres of global gravity, expanding their influence confidently outward in a borderless world. Now as then, cities are the real magnets of economies, the innovators of politics, and, increasingly, the drivers of diplomacy."

Unlike other scholars studying present-day trends of urbanization and social-economic inequalities, Khanna's particular interest in cities emerges from his expertise in (geo)politics, diplomacy and governance. He has written

several books on global system change with striking titles such as *The Second World: How Emerging Powers are Redefining Global Competition in the 21st Century* (2008) or *How to Run The World: Charting a Course to the Next Renaissance* (2011a). In these books, he has argued that the world is changing from a Westphalian system based on sovereign nation states towards a hybrid, multilevel and multi-layered system in which cities re-emerge. This more diffused world order, in which cities feature prominently alongside other actors like states and corporations, resembles the Middle Ages, and could therefore be dubbed as *neo-Middle Ages*.

This essay, based on an interview with Parag Khanna and some of his earlier writings, explores the consequences of this new world order for human rights. What are the indications that we are entering the neo-Middle Ages, and what implications will this have for the strategies of human rights NGOs that have traditionally focused on states and intergovernmental organizations like the UN?

'Diplomacity': cities as new diplomatic actors in an era of global power shifts

Khanna thinks we are experiencing a period characterized by a fundamentally changing world system. The world is moving towards a 'neo-medieval' system, in which cities become once again influential local, regional and even global actors. Khanna explains: "The medieval times were a very turbulent period in European history, but in global history more analytically it resembled a period in which you had empires, cities, families, merchants, mercenaries all operating in a multilevel and multi-layered system. This wide range of different kinds of units made it different from the Westphalia state centred system; such as what the

UN is built on. It was a much more diffused kind of order. I believe that system change now leads us into something that resembles in a new Middle Ages. Cities feature prominently in that era we are entering now."

Khanna's current research focuses on economic and geopolitical implications of the fusion of megacities. He clarifies: "There is an empirical reality that some megacities are becoming so physically large, that they are fusing with all of those around them. Look at the Pearl River Delta in China's Guangdong province. That one area has a combined GDP of over $800 billion that would make it a member of the G20; which actually means it has a larger economy than the Netherlands. China has at least three of these mega corridors, each of which would be a G20 member."

The Chinese Pearl River Delta is, with almost hundred million inhabitants in total, indeed an impressive example of the fusion of megacities. Besides Hong Kong, the region compromises cities that most people have never heard of; such as Guangzhou, Shenzhen, Dongguan, Foshan. These are each megacities of their own with thirteen, ten, eight, and seven million inhabitants respectively. Indeed, as Benjamin Barber (another contributor to this volume) states in *If Mayors Ruled The World* (2013: 56): "One might say it is not China, but Chinese *cities* that will dominate the coming decades."

Nonetheless, this merging of megacities is not only happening in China but also in other parts of the world. Khanna mentions several examples in India, the Abu Dhabi-Dubai region (which he calls 'Abu Dubai') as well as in the West (think of the well-known Silicon Valley in the USA). And it is likely that more will emerge in the future. Khanna: "If the US would invest more in infrastructure then there could be a Boston-Washington-New York type of mega corridor." The rise of (mega) cities also goes hand in hand with a regional power shift from the West to the global South and East. As Istrate and Nadeau (2012) conclude from research for the Global Metromonitor: "Three-quarters of the fastest-growing metropolitan economies in 2012 were located in developing Asia, Latin America, and the Middle East and Africa. By contrast, almost 90 percent of the slowest-growing metro economies were in Western Europe and North America."

According to Khanna, this regional power shift from West to East has implications for the perception and reception of human rights. Khanna points out that the rapid urbanization in Asia differs from earlier urbanization processes in the West and that it cannot be automatically assumed that 'Western' political cultures and norms will be adopted. In contrast, we may see possible shifts in interpretations of, and relative priorities amongst, core values like human rights. Khanna (2010) explains: "For these emerging global hubs, modernization does not equal Westernization. Asia's rising powers sell the West toys and oil and purchase world-class architecture and engineering in return. Western values like freedom of speech and religion are not part of the bargain."

Megacities are already powerful economic players, but according to Khanna, they are increasingly becoming diplomatic heavyweights too. One could say that a new type of urban diplomacy is emerging in the field of International Relations. Or, as Michelle Acuto and Khanna state in 'Around the World Mayors Take Charge' (2013): "Cities and mayors' offices are generating increasing capacity to conduct their own international missions - a phenomenon that could be called *diplomacity*."

One realm in which this sovereign diplomacy by cities is already visible, apart from security and climate change, is the realm of finances and economics. Khanna says: "What I see happening in cities like New York, London, Frankfurt, Dubai and Singapore is that these cities are really conducting their own bilateral diplomatic relationships. Historically, these 'sister-city programmes' were just cute. But what we see now is a much more strategic degree of interaction across cities to, among other things, harmonize regulatory policies around stock exchanges for example. It basically means that they are harmonizing their financial economies. It deepens their economic interdependence and in a way they almost become twins of each other."

It is still an open question how much influence megacities

will exactly have on global affairs. As Khanna asks in 'When Cities Rule The World' (2011b): "How big can cities get? In terms of political and economic might, we are just beginning to find out." Research into the economic and political power of cities is scarce but emerging. Several institutions are now starting to gather more (harmonized) data on cities, such as the Metropolitan Policy Program of Brookings Institution, LSE Cities, A.T. Kearny's yearly Global Cities Index, the World Urbanization Prospects of the UN and the Urban Development Indicators of the World Bank. Yet one thing is sure for Khanna: not all megacities will be equally powerful and influential. Khanna: "Just because a city is big does not mean that it is either stable, coherent or influential and it certainly does not mean it is effective. Megacities like Lagos or Jakarta, for example, simply do not have the kind of agency that London and New York have." In any case, Khanna believes it is time for a 'geographical frame shift' in thinking about, and shaping, global governance. Khanna (2010): "Taken together, the advent of global hubs and megacities forces us to rethink whether state sovereignty or economic might is the new prerequisite for participating in global diplomacy. The answer is of course both, but while sovereignty is eroding and shifting, cities are now competing for global influence alongside states."

Unlike Benjamin Barber, however, Khanna is not in favour of creating a 'Global Parliament of Mayors' (GPM) as a solution for failing global governance on issues like security, inequality, green energy or human rights. Instead of establishing more institutions, Khanna favours 'organic learning networks', or loose, dynamic inter-city alliances. "The spread of knowledge today", he explains, "is an organic process. It requires facilitators but not centralized intermediaries."

Cities as opportunities for migrants' rights

Like Barber Khanna is optimistic about the opportunities that cities might provide for the rights of (undocumented) migrants. While acknowledging that city officials are equally prone to populism, xenophobia and electoral interests as national officials, Khanna nonetheless believes they are

primarily potential allies for migrants' rights agendas. He explains: "Cities are already leaders in migration policy. We are seeing that some cities in the state of California, Los Angeles and San Francisco, are among the lobbyists for immigration reforms. Which is two things: one is amnesty for the many illegal immigrants who are permanently in the US and deserve to stay because of their contributions to the economy, the other is about maintaining a higher rate of migration to build jobs within various industries."

Khanna continues: "So cities have been very vocal advocates [of migrants' rights]. What is interesting is that cities are potentially able to have their own internal migration policies. Mayor Boris Johnson, for example, has been promoting the idea of a 'London Visa' to fill its worker shortages from around the world. It demonstrates that London will not allow economic potential to be blocked by delay in British immigration reform that would require parliamentary action."

London is not the only megacity developing city visa programs for undocumented migrants, which come along with certain economic and civil rights. In his first 'State of the City' speech, New York's new mayor Bill Di Blasio explained why he believes New York Municipal IDs are important: "We will protect the almost half-million undocumented New Yorkers, whose voices too often go unheard. We will reach out to all New Yorkers, regardless of immigration status - issuing municipal ID cards available to all New Yorkers this year - so that no daughter or son of our city goes without bank accounts, leases and library cards simply because they lack identification. To all of my fellow New Yorkers who are undocumented, I say: New York City is your home too, and we will not force ANY of our residents to live their lives in the shadows."

Khanna recognizes that in the end it is still the national government that controls immigration and grants permanent residency to migrants. Yet, he believes that cities can and are doing much for migrants. In fact, cities are already experimenting not only with urban visa but also with granting undocumented migrants some civil rights, such as the right to participate in urban referenda. These

good practices have impact far beyond the immediate local effects. Through their open immigration policies and their lobbying capacity, city authorities shape national policymaking in the long run. Khanna explains: "Cities could lobby for better state policies. State policies emerge from the sandbox of different parties and interest groups in which cities have a loud voice. Cities can argue at state level that the economy will suffer if states will not allow migrants."

Urbanisation and the rise of social inequality

Cities also pose risks for human rights. One particular problem that Khanna believes needs to be emphasized and addressed is urban inequality. He explains in our interview: "Generally, people captured urbanization in positive terms and the notion that it is creating wealth and ending poverty. It is true that cities, on the one hand, create many opportunities. People move to cities because on a relative basis they enjoy greater opportunities; access to services, greater incomes, education and so forth (…) It is, on the other hand, also a fact that the staggering inequality in cities is the reason why we now have greater domestic income inequality in the world than international inequality. It is not an accident that the domestic income inequality now exceeds the international at the same time that the world's urban population crossed 50 percent. Many speak about these phenomena as separate issues, but they are directly correlated. It is just *because* the world's population is overwhelmingly urban, that inequality has switched from becoming an international topic to a domestic issue."

Increasing socio-economic inequality at the national level becomes visible in the slums, favelas or townships surrounding megacities such as Rio de Janeiro, Mexico City, Karachi, Johannesburg and Delhi. Khanna convincingly argues that the degree to which city governments are able to address this will define their future. He (2011b) writes: "The state can no longer ignore these settlements as it did a century ago; their community power and political clout are growing rapidly. Indeed, favelas and similar settlements worldwide create a crisis of legitimacy for federal and city governments. Providing housing for the 1.6 billion people

without a roof over their heads has become a test of governability - a test which cities like Mumbai are failing despite being host to the world's most expensive home, the one billion dollar, 27 story residence of magnate Mukesh Ambani."

Khanna is certainly not the first who observes the growing inequality in cities as a worrying phenomenon. From Henri Lefebvre's *Le Droit à la Ville* (1968) to David Harvey's *Social Justice and the City* (1973) and Mike Davis's *Planet of Slums* (2006), academics have been fascinated by the fact that in the city the poor and rich live so close to one another. Even an 'urban optimist' such as Richard Florida (2014) recognizes that "urbanization has become a key part of economic growth in today's world. In many places, cities have provided a critical spur to overall economic growth. But the benefits that come from urbanization have been uneven. In too many parts of the Global South, mega-slums and persistent poverty remain disturbing facts of life."

Despite the academic interest in this topic, Khanna underscores that so far there has not been any effective political response to urban inequality: "So cities not only drive growth, they also cause inequality. That is something we are not addressing head on. Not as economists, not as policy makers, not as NGOs (…) I hardly see any city in the world - let alone any state - that has a proactive and successful strategy for mitigating the domestic and urban income inequality. That concerns me a great deal."

Khanna (2010) mentions *Habitat for Humanity* as one exception of an NGO that "has moved well beyond lobbying 'governments versus municipalities' to construct and provide affordable housing for the poor. Instead, it works with whichever authority is willing to step up." Khanna believes this is exemplary of how international NGOs should start operating which, at the same time, could also support urban organizations in their struggle for the rights of the urban poor. He believes they could play an instrumental role: "International organizations can be helpful, because these local urban organizations are usually terribly understaffed and they do not have a lot of technology."

Privatization and militarization of security

Khanna highlights that the widening gap between the rich and poor in megacities intersects with the privatization of security (see also the contribution of Jaffe & Grassiani in this volume). Again, Khanna draws a parallel with medieval times to illustrate this phenomenon. Khanna (2010): "Where knights and walls once protected the aristocracy from unwanted outsiders, now electrified gates and private security agencies do the same. (…) Anyone who travelled to South Africa for the 2010 World Cup might have noticed how private security forces outnumbered official police two to one, and gated communities protected elites from the vast townships where crime is rampant. Cities - not so-called failed states like Afghanistan and Somalia - are the true daily test of whether we can build a better future or are heading toward a dystopian nightmare."

The more security is becoming a commodity, affordable for the urban rich only, the larger the gap between the rich and poor becomes. With their money, the urban *nouveaux riche* can distance themselves from the urban dwellers, quite literally. As Khanna writes: "Sao Paulo has the highest rate of private helicopter use in the world; a literal sign of what heights people will go to in order to avoid the realities of the world below."

Not only the urban rich, also city governments are increasingly cooperating with private security companies to protect public order and security. The result is that national security is increasingly 'urbanized' and privatized, with cities copying and learning from each other's security approaches (see also Stephen Graham's contribution in this volume). Khanna says: "We see cities that realize that there is too much at stake in their own urban ecosystem and their own economic foundation to leave their security to the hands of their state. New York City, as you may know, has done a lot to develop its own private intelligence services. That model has been copied in a way from Israel and is now being shared with other cities."

Khanna points out that this urbanization and privatization of security may not be all that positive for human rights

or human security. Now the terrain of national security is increasingly occupied by cities, outside the regulatory arm of the state, a militarization of security would become apparent. Khanna: "This trend is visible most prominently in overpopulated countries. Brazil – with its (para) militarization of urban police forces - is probably the leading example today. But also in India; after the Mumbai terrorist attacks, Mumbai realized it needed to have something of an own force." The urban militarization is also unfolding in European cities. After the French *banlieue* riots of a couple of years ago, the Parisian authorities created an effectively autonomous Parisian military force that, according to Khanna, does not necessarily respect human rights or humanitarian principles: "This is no typical *gendarmerie* and it certainly does not operate according to the Geneva Convention."

Implications for human rights organizations

In the 'neo-medieval world' we are approaching in Khanna's view, international NGOs must be aware of the multitude of actors exerting power at the different local, national and international levels, in particular cities. Khanna emphasizes the need for a geographic frame shift and stresses that "we should stop thinking that cities belong to countries and start seeing countries are the hinterlands of cities." He (2010) writes: "As our world order comes to be built on cities and their economies rather than nations and their armies, the UN becomes even more inadequate as a symbol of universal membership in our global polity. Another model could be built on the much less rigid World Economic Forum of Davos fame, which brings together anyone who's someone: prime ministers, governors, mayors, CEOs, heads of NGOs, labour union chiefs, prominent academics, and influential celebrities. Each of these players knows better than to rely on some ethereal 'system' to provide global stability - they move around obstacles and do what works."

If international NGOs want to continue to shape global governance, they must adopt their strategies to this new order with multiple changes of power in world politics. He says: "The notion of cities as strategic and important

diplomatic agents, has a very important role in how we think about approaching human rights issues." For one thing, it means that international human rights NGOs like Amnesty International should no longer exclusively focus on states and multilateral forums like the UN as targets of their advocacy and activism but include more actors, at different levels. Khanna: "NGOs have to evolve to suit the world as it is! Cities are becoming important constituencies and targets for NGOs. I appreciate that Amnesty has a long history in nurturing relations with states, the international community and global institutions such as the UN. But I go to conferences where scholars and policymakers talk about serious global governance issues and after three days no one has ever even mentioned the UN. Thus, you have to be aware of structural change. You cannot be an NGO that only lobbies national governments; it is simply not enough!"

When asked what would happen if international human rights NGOs focus exclusively on states and institutions such as the UN, Khanna answers: "It could mean irrelevance. (..) If you are only going to lobby the US government or the UN for improving the human rights conditions in Tibet, you are obviously not going to succeed.

You have to go local much more." Khanna emphasizes that focusing on cities does not imply that we can forget the rural world: "Of course, a large percentage of the world's population will still be rural. There are obviously developmental, political and human rights issues associated with rural populations that relate to the same issues such as climate and inequality. We will benefit from developing more appropriate methodologies for addressing their needs and concerns, rather than lumping everyone together into this notion of 'the nation state'. We also need more appropriate methodologies for addressing their needs and concerns."

Thus, human rights organizations need to lift their eyes from fixating too much on the nation-state and bring the city (back) into their work. To summarize in Khanna's words (2010): "What happens in our cities, simply put, matters more than what happens anywhere else. Cities are the world's experimental laboratories and thus a metaphor for an uncertain age. They are both the cancer and the foundation of our networked world, both virus and antibody. From climate change to poverty and inequality, cities are the problem - and the solution."

Marie Huchzermeyer

Forced Evictions and 'The Right to the City'

As cities face pressure to optimize their economic performance, evictions proliferate. Social and rights-based movements and NGOs have begun to adopt 'the right to the city' as a slogan for activities that confront evictions and promote citizen participation in urban development. A return to Henri Lefebvre's theorizing of this phrase provides a framework which may widen 'right to the city' activities to promote more complex, diverse and convenient urban spatial forms through processes in which inhabitants spontaneously shape the city. This must be supported by legal systems at the national and city levels.

Introduction

The right to the city, both as a slogan and as a theoretical and analytical framework, has gained prominence in the Anglophone urban and development discourse over the past decade. In the first instance, right to the city is understood to promote access by the poor to urban space and decision-making. It is undermined by forced evictions and other measures that exclude the poor from cities. Forced evictions in urban areas are increasingly linked to the pressure faced by authorities to optimize the economic functioning of cities. This chapter looks to the right to the city, as originally conceptualized by Henri Lefebvre from the late 1960s, as a lens for strategic analysis of the dynamics that lead to forced evictions, and as an impetus for new strategies for rights-based movements.

Evictions in context

Across the globe, we have witnessed an increase in urban evictions since the new millennium, in particular in middle and low-income countries. With regard to the African continent, where many cities are experiencing rapid growth in population amidst uneven economic development, Jean du Plessis (2006: 184) speaks of "an epidemic of forced evictions, on an unprecedented scale". This has occurred during a period in which several countries adopted and consolidated a constitutional democracy. Kenya for instance modelled its 2010 Constitution with its qualified right to housing on the 1996 Constitution of South Africa. Unlike Kenya, South Africa, however, has not ratified the International Covenant on Economic, Social and Cultural Rights (ICSR), which includes the right to adequate housing in Article 11. Whether based on a national Bill of Rights or the International Covenant, litigation has to confront a persistent, if not growing violation of the rights of poor households and individuals. Authoritarian tendencies within states, merged with the adoption of urban policy approaches that prioritize economic competitiveness, have overridden housing-related rights.

Part of the reason is that these had been weakly secured. In the postmillennial period, the South African state even resorted to legislative changes (later found to be unconstitutional and reversed) which reintroduced apartheid-era measures, increasing the state's powers to evict and obligating landowners to institute eviction procedures in cases of formally unauthorized occupation (Huchzermeyer 2011). It promulgated the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act No. 6 of 2007 (in short the KZ-N Slums Act) as an example for other provinces to follow. It also proposed amendments to the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act No. 19 of 1998 to criminalize organized land invasion by desperately poor households. This act had repealed South Africa's notorious Prevention of Illegal Squatting Act No. 51 of 1951.

The adoption of human rights frameworks, including a qualified right to housing (Section 26 of the South African Constitution of 1996 or Section 21(2) and 43(1)(b) of the Kenyan Constitution of 2010), has required the building of related legal expertise and capacity within the national legal aid infrastructure to bring cases to the courts. However, this has been paralleled by a persistent and growing need not only for this framework to be invoked, but also for defence against its dismantling (as in the recent case of South Africa). Furthermore, only a fraction of eviction cases find their way to courts. Court orders in turn, when favourable to those opposing eviction, are largely ignored by states which perceive them as only one of many pressures they juggle in budgetary, managerial and political decision-making. A stronger pressure than to uphold basic citizenship and human rights is to create the conditions for the global market to flourish. Cities and city regions are the sites in which these conditions are judged on a competitive basis (Brenner 2004). The poor, with their largely make-shift or substandard accommodation and trading stalls, often find themselves in the way, as 'trash' to be 'cleaned up' or 'swept away' in the unashamed official naming of many urban programmes (whether Zimbabwe's Operation Murambatsvina in 2005, or Johannesburg's operation 'Clean Sweep' as recent as 2013, which was condemned in the Constitutional Court in 2014).

Urban competitiveness is understood to involve the management of mobility, primarily to attract the skilled class required by global investments (Turok & Bailey 2004). However, managing the mobility of people for urban competitiveness also includes removing households from land which is seen not to yield its full economic potential, and sending a message that any newly arriving or returning poor are unwelcome. In South Africa, this has resulted in the eviction of residents from dilapidated but not necessarily uninhabitable inner city buildings (COHRE 2005) and repressive surveillance to prevent entry or return after an eviction (Huchzermeyer 2011).

Today, one can trace a close connection between eviction and security strategies, in turn linked to the competitiveness agenda. In South Africa private security

firms (see also the chapter of Jaffe and Grassiani in this publication) offer municipalities a range of services from forceful removal and surveillance of land through to emergency interventions and protecting 'development' against unlawful invasion. Emergency interventions are required as a result of the Grootboom ruling in the Constitutional Court in 2000. In this case, the Court found that South African housing policy did not cater adequately for those living in intolerable conditions. Under the Emergency Housing programme that was developed as a result of the judgment, emergency services comprise temporary shelter with shared sanitation and access to communal taps.

Thus 'development' is often conceived by the state as a coin with two sides. Forceful removal and surveillance on the one side, a reductionist or minimal service provision on the other. As service provision (including basic housing) lags behind the scale of removal and surveillance, housing poverty is hidden in ever-worse conditions. Many hidden forms of housing are exploited for private gain, with exorbitant rents being charged. Most payment-related private evictions occur outside of the radar of human rights organizations and due to the force or violence applied and the victims' limited knowledge of their rights, are not opposed.

Eradication, eviction, relocation and resettlement are found to go hand-in-hand with modern world-class city aspirations (Murray 2008: 14; Gibson 2011: 20). In this context, a paradox has arisen in which global agencies have been calling on 'developing' states to compete globally for foreign direct investment, while also expecting them to improve the lives of the poor – in the same locality, namely cities (Huchzermeyer 2011). The World Bank's Urban and Local Government Strategy of 2000 was built on two economic pillars, competitiveness and bankability, alongside good governance and liveability. At the same time the Bank, in collaboration with UN-Habitat launched the Cities Without Slums Action Plan, through which it sought to promote slum upgrading. A right to the city lens illuminates this paradox and shows that it cannot be resolved without a fundamental shift which subordinates the economic function of the city to social life.

The right to the city: reception, codification and mobilisation

In segregationist and subsequent apartheid South Africa and in many colonies in the 1940s, 50s and 60s, the demand for a right to live and work in the city informed an evident struggle from below. This struggle was to some extent won with independence from colonial and other exclusionary rule. Unrelated to this, in the late 1960s the French philosopher and sociologist Henri Lefebvre challenged dominant scholarly and political thinking in France by articulating and theorizing a right to the city. The idea of a right to the city is now prominent in a variety of campaigns across the globe. The right to the city has been referred to as an "intuitively compelling slogan" (Marcuse 2012: 29), and in some instances is used with no reference to Henri Lefebvre's ideas. However, Lefebvre produced a rich and complex argumentation about the meaning of the right to the city and its challenges. His conceptualization of the right to the city relates to present-day evictions in complex and relevant ways and is therefore set out in the sections that follow.

Lefebvre was a Marxist scholar who stretched the boundaries of Marxism, in particular by introducing the liberal notions of humanism and rights into a Marxist humanism which he applied to the city (Grindon 2013). In the mid 1960s, Lefebvre turned his attention from everyday life in rural settings to the urban (Smith 2003: ix). The everyday as a concept informed his thinking on the right to the city and subsequent work on *The Urban Revolution* (Lefebvre 2003[1970]), as well as *The Production of Space* (Lefebvre 1991[1974]). Lefebvre understood the everyday as a contradictory lived experience in which consumption is central, thus playing a critical role in the survival or endurance of capitalism (Kipfer 2002: 118, 127, 132). "In showing how people live, the critique of everyday life builds an indictment of the strategies that lead to that result" (Lefebvre 2003[1970]: 139).

Lefebvre initially referred to the need to reformulate the freedoms related to housing "as the *freedom of the city*" (Lefebvre 1971[1968], emphasis in original). He also referred to a "struggle for the city" (ibid: 205) and later articulated a "right to the city", as "a superior form of rights" (Lefebvre, 1996[1968]: 173). Given that the "rights discourse" is "deeply embedded in the liberal capitalist tradition" (Kuymulu 2013: 927), it is important to understand what Lefebvre invoked when framing his complex ideas on the city first as a *struggle* and a *freedom* and later as a *right*.

It is suggested that Lefebvre's right to the city "was not intended to be taken literally (…) but [as] a moral right, an appeal to the highest of human values" (Marcuse 2014: 5). However, Lefebvre (1971[1968]: 152) identified a necessary progression from "aspirations faintly tinted with assertiveness", from "values" to "facts" and to these being "acknowledged as rights", until "social recognition becomes inevitable". Lefebvre (1996[1968]: 157) speaks of the necessity for the right to the city to be inscribed "into codes which are still incomplete". In this sense, he (ibid: 179) refers to "a right in the making". For this progression from aspiration to actual legal right that ultimately enjoys social recognition, Lefebvre (ibid: 157) states that "[t]he pressure of the working class has been and remains necessary" but adds that this is "not sufficient". This means that socio-legal and urban legal experts need to work alongside social movements in incorporating the aspirations, values and content of a right to the city which Lefebvre articulated into legal frameworks.

Much work has been done on drafting an all-encompassing [World Charter on the Right to the City](#) (International Alliance of Inhabitants 2005). This is not directly drawn from the content Lefebvre intended for a right to the city, to which I turn next. My reading is that, rather than calling for international agreements, Lefebvre's right to the city requires country-level legal analysis and the development of legal/regulatory proposals. This must be accompanied by political mobilization to demand for all aspects of this right to the city to be developed into "codes" or a "contractual system" and to be "concretized" (Lefebvre, 2003[1970]:150) at country level.

Lefebvre's conceptualization of the right to the city and its meaning for evictions

Lefebvre "criticized static binaries" (Kofman & Lebas 1996: 10) and pointed instead to complex and at times exaggerated opposites and contradictions (Smith 2003). He uses these to help advance his definition of the city to which all should have a right. Across his work, Lefebvre puts forward several attributes of this city, each with an opposite with which it co-exists. Table 1 is a summary of the key concepts that Lefebvre uses as attributes of the city, with those in the two columns co-existing in complex ways. It is when those in the right-hand column dominate over those on the left, that the right to the city is undermined. Thus the right to the city entails the right to the *oeuvre*, to use value, to urban society, to inhabit, to appropriation, to centrality, to complexity and to difference. I explain these briefly below, focusing on the understanding they provide of housing and evictions.

The *oeuvre*	Product
Use value	Exchange value
Urban society	Industrial society
To inhabit	Habitat
Appropriation	Spatial domination
Centrality	Dispersion
Complexity	Reduction
Difference	Homogeneity

Table 1: Attributes of the right to the city, with their opposites (bold) that have come to dominate urban space Source: Compiled from Lefebvre (1991[1974]; 1996[1968]; 2003[1970])

The French built environment which Lefebvre witnessed in the late 1960s and early 1970s could not be termed a 'city' according to Lefebvre's definition of the word. It was primarily produced to serve the economy and industrial growth (the built environment as a 'product' serving 'industrial society'). It did not come about through the creative work (in French '*oeuvre*') of urban inhabitants (Lefebvre, 1996[1968]:177). Furthermore, the need for the built environment to be useful to ordinary city dwellers ('use value') was subordinated to a

need to promote the economy ('exchange value') (ibid.: 75). In today's equivalent, the built environment predominantly serves urban competitiveness or the ability to attract foreign direct investment.

Lefebvre opposes 'to inhabit', a process in which residents shape both their home and the city, with 'habitat', which refers merely to the housing stock. But he also writes of the "right (…) to habitat and to inhabit" (Lefebvre 1996[1968]: 173), acknowledging the necessity of both – the need for housing stock, but the need also for this to be shaped by residents. Under rational town planning of the 1960s and 1970s in France, the housing stock was uniformly mass-produced and located in dedicated residential zones, separated from retail spaces and places of employment. This did not enable residents 'to inhabit' or to take an active part in creating homes and complex public spaces. Town planning schemes in most Anglophone countries today still embody this approach of uniformity of buildings and separation of land use.

In Marxist tradition, Lefebvre applies a dialectic approach (Smith 2003). His dialectic on housing acknowledges on the one hand the freedom of "independent life" which mass housing enables; on the other hand it points to the dismissal, through this form of housing, of many attributes of the right to the city (Lefebvre 1971[1968]: 151,152). With reference to everyday life, Lefebvre (ibid: 151) identifies two sources of "misery". On the one hand there is the housing shortage which he likens to "terrorism as it hangs threatening over the young (and not only the young)". The contemporary reality of this misery on the African continent is exemplified by the following estimated housing backlogs: 3 million units for Tanzania, 2.1 million for South Africa; 2 million for Kenya, 1.25 for Zimbabwe and 1.2 million for Algeria (Centre for Affordable Housing Finance in Africa 2011).

On the other hand, Lefebvre (2003[1970]: 83) argues "never has the relationship of the 'human being' with the world (…) experienced such profound misery as during the reign of habitat and so-called 'urbanistic' rationality". South African mass housing delivery of the past two decades (and more so that of the preceding apartheid era)

exemplifies this well: large-scale projects on the distant urban periphery, devoid of social or retail amenities and at long distances from economic opportunities. Layouts with small free-standing units ensure that homogeneous spatial dispersion prevails. Attempts (though not always successful) are made to maintain this pattern through restrictions and regulations. This stands in contrast to the residents' wish to actively inhabit or to be able to shape not only their housing but, more collectively, the city.

Lefebvre's concept of 'centrality' applies not only to city centres but to spaces with an intensity of functions, activity and encounter. These may emerge spontaneously and may rapidly change (Lefebvre 2003[1970]: 130-131). Centrality is possible only in its existence alongside and in contrast to relative dispersion. This inevitably inscribes a certain (necessary) spatial inequality into the city (Lefebvre 2003[1970]: 125). A built environment made up of equal dispersion (exemplified by suburban residential zones under rational town planning) with no centralities or places of intensity, cannot constitute a city in Lefebvre's sense.

In a context of spatial restrictions and regulations, Lefebvre conceptualizes inhabitants' active process of creating centrality, complexity and difference in the built environment as "appropriation" (Lefebvre, 1991/1974: 373, 374). Lefebvre refers to informal settlements as examples. He writes that in "[t]he vast shanty towns of Latin America (…) [a]ppropriation of a remarkably high order is found (ibid: 373, 374)". He uses the term 'negative appropriation' for the autocratic state's response to such activity. In the case of a shanty town or informal settlement, negative appropriation involves forced removal and replacement of the formally unplanned and unauthorized settlement with uniform, state-approved development. In some cases residents manage to 're-appropriate', although this is often "but a temporary halt to domination" (ibid: 168). This is exemplified by those displaced from demolished informal settlements invading land anew (mostly due to the lack of alternatives). Lefebvre criticizes modern or rational urban planning for facilitating this spatial domination. He (1996[1968]: 79) talks of planning practice that has "set itself against the city and the urban to eradicate them".

Lefebvre provides a fitting phrase for the environments from which eviction is prevalent: the "*urban* survives in the fissures of planned and programmed order" (Lefebvre ibid: 129). These fissures are urban environments that either have come about outside the reach of or predate rational planning – informal settlements, or neglected historic parts of town labelled as 'slums'.

An existence in the fissures weakens dominated space (Lefebvre 1991[1974]: 373, 374). This, in turn, justifies the state's destruction of such spaces. Thus in South Africa, the KZN Slums Act, which unconstitutionally increased the state's powers to evict, was, in a Lefebvrian sense, an instrument for the domination of space. Subtly, the Act was in favour of deepening the reach of capitalism in the everyday. Officially, it was justified on the basis of the need to meet global standards in the hosting of the 2010 FIFA World Cup in South Africa (Huchzermeyer 2011). With its title reading 'Elimination and Prevention of Re-Emergence of Slums', the Act was an instrument for negative appropriation, and for preventing even temporary re-appropriation.

Conclusion

The right to the city in Lefebvre's sense requires the subordination of the economic function of the city, for instance the drive for global competitiveness, to social life. This subordination must enable ordinary citizens to spontaneously participate in the shaping of their homes and the city, thus allowing complexity, diversity and difference to flourish in urban space. It must confront the contemporary paradox through which cities find themselves compelled to comply with standards that make them globally competitive, while expected to upgrade informal settlements *in situ* (often in proximity to sites of global economic potential) to vastly inferior standards. Planning and regulation must depart from uniformity and separation to embrace spontaneity, thus preventing evictions that result from processes of spatial domination. In this sense, a right to the city framework developed from below, if it were adopted into law at city and national level, needs to provide a critical link between, on the one hand, the existing socio-economic human rights that are invoked in the defence against eviction and, on the other, the essence of what a city ought to be.

Margaret Kohn

Human Rights and Housing

According to UN-Habitat, one billion people, a third of the world's urban population, live in slums. The vast scale of the problem forces us to confront the tension between the right to shelter and the right to private property. This chapter draws on the work of John Locke, one of the foremost theorists of private property, to show why the right to life, which includes shelter, must have priority.

Introduction

The right to the city has slowly developed from Lefebvre's theory (see also Marie Huchzermeyer's essay in this book) to a new theme in international human rights discourse. UNESCO and UN-Habitat have advanced the view that the right to the city is an important part of the broader human rights agenda (Purcell 2014). The European Charter for the Safeguarding of Human Rights in the City and the World Charter for the Right to the City are two recent manifestations of the growing influence of this idea. The Montreal Charter of Rights and Responsibilities, which draws explicitly on UN human rights principles, recognizes emerging urban rights such as the right to affordable housing, municipal services, and participation in urban planning. In this chapter I explain and defend one of the most important dimensions of the right to the city: the right to housing or shelter in informal urban settlements. The right to shelter is only a small part of the broader 'right to the city' but, given the rapid growth of megacities and the precarity of life in informal settlements in the Global South, the moral and legal recognition of this basic right is a particularly urgent human rights priority.

In March 2011, New Delhi, UNESCO and the *Centre des Sciences Humaines* organized an international meeting on

the topic of the right to the city. One goal of the meeting was "to raise awareness among key decision-makers (local authorities) on the need to adopt a rights-based approach to urbanization for a better inclusion of marginalized and vulnerable population in Indian cities" (UNESCO 2014). Indian courts initially recognized a limited right to shelter but subsequent decisions have become less sympathetic to social rights. This article begins with a brief overview of the key legal case *Olga Tellis v. Bombay Municipal Corporation* (1985) and then draws on Lockean liberal theory to provide a more thorough defence of the rights of people living in informal settlements.

The right to shelter versus private property

On 13 July 1981, the chief minister of Maharashtra, India announced that all pavement dwellers would be evicted from public property. Their make-shift shelters would be destroyed and the inhabitants would be sent back to their villages. One of the pavement dwellers was P. Angamuthu, a landless labourer who migrated to Bombay in 1961 in order to find work. He left Salem, Tamil Nadu because of a drought which exacerbated unemployment and hunger in his village. He found a low-paying job in a chemical company. Unable to afford even the most basic dwelling, he paid a 'landlord' for plastic sheeting and access to a bit of pavement adjacent to the Western Express Highway. Some of his neighbours were construction workers who built the highway and then remained after it was finished. Angamuthu lived there with his wife and three daughters until 23 July 1981 when his shack was destroyed and his entire family was forced onto a bus to Salem. Unable to find work, he soon returned to Bombay.

Angamuthu's story is not unique. According to the 2011 census, 41% of the residents of Mumbai live in informal settlements (Rahman 2013). His name is known because he was one of the petitioners who challenged the dispossession and deportation in a case that made it to the Indian Supreme Court. The resulting decision *Olga Tellis v. Bombay Municipal Corporation* (1985) is considered a trailblazing case of public interest litigation.[1] The petitioners challenged the slum clearance project on procedural and substantive grounds. They argued that there is a right to occupy public land and this right is derived from the constitutional protection of the right to life in Article 21 of the Indian constitution. They also claimed that the municipal statute that allowed for eviction without prior notice was unreasonable insofar as it failed to provide the opportunity for those affected to plead their case. Finally, the court considered the underlying issue, which was the paradoxical assertion that an individual could have a natural right to public property.

The UN-Habitat program has begun to encourage countries to adopt rights-based legislation to help secure housing and inclusion for the most vulnerable urban residents. In the 30 years since the *Olga Tellis* decision, the right to shelter has become an even more pressing issue. Urbanization has dramatically increased the size of cities in the developing world and the proportion of people living in informal settlements has outpaced even this rapid growth. In India alone, 64 million people live in urban slums. Article 11 of the International Covenant on Economic, Social and Cultural Rights includes the right to adequate housing among the rights that are derived from the principle of human dignity. The Covenant frames these rights as aspirational rights that should guide both domestic and international institutions. A number of countries, including France, Brazil, and South Africa have introduced constitutional or statutory language explicitly recognizing the right to housing, yet the number of people without adequate shelter has increased. What then is the role of rights? The right to housing is one of the frameworks that policy-makers, judges, and citizens use

in evaluating whether it is acceptable to displace people from their homes and whether it is obligatory to provide adequate shelter. This idea competes against other powerful frameworks such as the right to private property, the efficiency of the market, and state sovereignty. This chapter aims to clarify and strengthen the theoretical arguments in favour of a right to shelter in order to convince policy-makers, judges, and citizens that this should be a priority.

It is important to deepen our understanding of these normative issues, because the political and legal climate has become much more hostile to social and economic rights such as the right to shelter. Fifteen years later in *Almitra Patel* (2000) the Indian Supreme Court revisited this issue and rejected the claims of the pavement dwellers. Strongly influenced by urban developmentalism which emphasizes "the city as growth machine" (Peterson 1981) and de-emphasizes redistribution, the court accused pavement dwellers of privatizing public space and theft. Slum clearance and displacement is a global phenomenon. Mega-events such as international sports competitions and meetings have also driven massive displacement of urban populations, most recently in Rio de Janeiro, the host city for the 2014 World Cup and the 2016 Olympics. In the favelas outside Rio, 19.000 residents have been displaced to make space for new roads and facilities (Gibson & Watts 2013). This chapter provides a theoretical defence of the right to shelter. The right to shelter can be justified in two ways, as a dimension of the right to life or as a kind of property right. I explore these concepts through an extended analysis of John Locke's arguments justifying the private appropriation of common land and the right of subsistence. Locke provides the most influential defences of private property, therefore his account of the limits of private property is a powerful tool that can help us think through cases where property rights and human rights are in conflict.

Locke and the right to property

Recent arrivals in the modern metropolis do not discover *terra nullis.* As Doug Saunders points out in *Arrival City* (2010), most people who move from the countryside to the urban periphery gain access to land through the market.

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1   Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180.

Even though they acquire neither secure title nor urban amenities, they have to pay the previous occupant, landlord, or neighbourhood boss a purchase price or rent. Even new land invasions are often organized by political/economic entrepreneurs who use their political influence or muscle to ensure that the settlement is not dismantled before newcomers establish a physical presence (Saunders 2010: 221). The legality of these transfers, however, still rests on the legitimacy of the original acquisition of previously undeveloped land. Property rights rest on two principles: initial acquisition and legitimate transfer. How is it possible to acquire the right to occupy empty, common, or unused land? John Locke helps to answer this question.

In *The Second Treatise of Government* (1980 [1689])*,* John Locke introduces three different theories of property. He argues that all property was originally held in common but private property is justified when it results from mixing one's labour with external materials. He illustrates this principle by giving examples of the individual appropriation of the bounty of nature: water in a stream, apples on a tree, a deer running through the forest. The apple on the tree belongs to everyone but an apple that was harvested becomes the legitimate private property of the person who picked it. Locke argues that the same idea applies to land. The person who clears, cultivates and improves land has mixed his labour with it and therefore deserves ownership of both the produce as well as the land itself.

Locke notes that there are some natural limitations on appropriation. The first is the spoilage limitation, a principle of natural law that dictates that no one should take more than he or she can use, since the bounty of the earth is not meant to be wasted. This limitation, however, loses its force after the introduction of trade and money, because these make it possible to accumulate value in durable goods such as gold and silver that do not spoil.

The second limitation is the famous Lockean proviso. According to Locke, "this initial appropriation of land, by improving it, (wasn't) any prejudice to any other man, since there was still enough, and as good left; and more than the

yet unprovided for could use" (1980 [1689]: par. 33). Some scholars have interpreted this through the lens of concepts introduced by the political philosopher John Rawls. The Rawlsian difference principle requires that any unequal distribution is justified only if the worse off are better off than they would be under strict equality. Locke claims this is also true of private property. He insists that "he who appropriates land to himself by his labour, does not lessen, but increases the common stock of mankind" (ibid: par. 37). According to Locke, enclosed, cultivated land is ten or even 100 times more productive than uncultivated land. Even though the practice of unlimited private appropriation does leave some people without access to property, Locke insists that they still benefit because a day labourer in England is fed and housed much better than the indigenous people in the Americas.

Scholars have drawn attention to a number of problems with Locke's analysis of property. Some have pointed out that the labour theory, despite its intuitive plausibility, is not convincing. Mixing individual labour and commonly owned material could just as easily enrich the value of common property. Why shouldn't my labour become part of the common stock instead of turning the common stock into my private property?

Furthermore, the phrase "as much and as good" has been subject to considerable scrutiny. Even if we accept the empirical claim that the day labourer is better off than the person in the state of nature, this does not mean that their share is 'as good' as the one taken by the first privatizers. Additionally, this framing rests on the 'either/or' fallacy. By implying that the only choices are 'common-property-with-low-productivity' or 'large-estates-and-day-labour', it denies the possibility of other more equitable arrangements, for example distributing land more widely by limiting the size of estates or farming co-operatively. These alternatives were hardly unimaginable in Locke's day. The former was proposed by the 17th century republican political theorist James Harrington and the latter was practised by the Diggers, an egalitarian agrarian movement in 17th century England.

Locke also introduces two other principles that limit property rights: political agreement and the right to life. Although the right to property is described as a pre-political natural right, it can only be enforced after the social contract creates a state. Property becomes something more than mere possession when it is recognized by others and this recognition is guaranteed through enforcement. In a puzzling passage, Locke points out that the natural-right-to-appropriate-land works until land becomes scarce and then people must switch to using 'consent' to settle dispute over grazing lands and territorial boundaries. It is hard to overlook the fact that Locke uses the biblical families of Cain and Abel as examples of clans that might hypothetically reach the point where their expanding land claims came into conflict. Not only politics, but also the threat of violence, haunts the text. In this formulation, political institutions are not limited to protecting property rights that are derived from natural law; they create property rights, presumably by balancing different interests and claims. This conventional understanding of property is widely accepted today and, in fact, Locke endorses it explicitly later in the text, but it still sits uneasily with the pre-political right to property.

Another factor that complicates the view that Locke is simply an apologist for an unlimited right to private property is the principle of self-preservation. In the opening paragraphs of the *Second Treatise*, Locke emphasizes that humans are obliged to preserve themselves and the law of nature commands the preservation of all mankind. In a time and place where premature death from overwork and malnutrition was common, this seems to imply some type of minimal obligation to provide charity, and Locke did defend a limited, draconian form of poor relief. He also noted that the right to preservation included a right to the *means* for preservation, including subsistence and that this entailed an obligation on others: a wealthy man could not rightfully deny another person "surplusage of his Goods" when "pressing Wants call for it" (Tully 1993: 113).

Informal settlements and property rights

We now have all three components of Locke's theory: labour (improvement); subsistence; and politics. Can we use

them to think about the right to housing found in Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR)? I think we can. The first step is to consider whether there is a way to establish a priority amongst these three features. This is not too difficult. Self-preservation is the natural end of human beings and property is a means to that end. Human beings are naturally vulnerable to the environment and need protection from the elements in order to thrive. Building and shaping the landscape in order to create shelter and order is a basic human need, similar to the need for food and physical security. Even Hobbes, who had a limited view of natural law, included the right to a place to live among the most basic rights.

The right to property is a means to the end of self-preservation and the end takes precedence over the means. We appropriate the apple or water or shelter because otherwise we could not employ them for survival. Private property is justified because it can increase productivity and thereby provide subsistence for more people. This has clear implications for human rights. The right to shelter, if conceived as a basic requirement of survival, has priority over the general right to private property.

The private property rights of an individual or group are subordinate to the right of self-preservation, but private property can potentially secure preservation and, under some circumstances, can increase efficiency and productivity. We do not have to choose between unlimited private ownership of land and a common property regime that allows only personal use and never ownership. A core principle of welfare liberalism is to allow markets and private ownership in order to increase aggregate productivity and then redistribute resources to compensate for increases in inequality and to secure a basic standard of living for all.

How does this help us think about and strengthen the right to housing? If the right to self-preservation has priority over property rights, then it is wrong to evict someone when eviction makes them vulnerable to harm from exposure or unable to work to support themselves and their families. This is especially true when the occupier has inhabited

and developed the property over time. This was recognized in the Roman legal doctrine of *usucapio* and the British common law principle of adverse possession. In these cases, the rights to self-preservation and acquisition-through-improvement reinforce one another.

Even if we accept these arguments, however, there are still a number of difficulties. First, if 41% of the residents of Mumbai live in informal settlements, then this expansive approach to the right to shelter has enormous consequences. Especially in poorer countries, it may not be economically feasible to provide appropriate public housing or even municipal services to informal settlements. Second, this approach may seem to undermine the traditional understanding of public property rights. If needy people can erect shelters on the side of the road, then why not in a park or even in a museum? In fact, the government made precisely this argument in the *Olga Tellis v. Bombay Municipal Corporation* case. The road in question, it insisted, was not empty space but rather a place that was needed for the safe circulation of pedestrians and traffic. Recent court decisions have endorsed this view and concluded that the use of public space for dwelling is a privatization of public space and equivalent to theft. Pavement dwellers take land that the general public could use for purposes such as recreation or circulation and turn it into the private home of a family.

The right to housing may be the most difficult of human rights because of its distinctive characteristics. It is complicated because physical space is limited and exclusive in a way that health or education or even food

(in wealthy countries) is not. It is also very different from the right to free speech or a fair trial, which can be universalized more easily. Your right to a fair trial makes my right more secure but your right to a housing unit leaves one less place for me to live. Despite the challenges involved in judicializing this right, it articulates an important ideal that can serve both to guide policy and to criticize government actions.

Conclusion

Can the right to housing be incorporated more thoroughly in the language of human rights treaties or the practice of human rights organizations? The answer to this question depends on how we understand rights. If we conceive of rights as some philosophers do, as abstract principles or 'trumps', then the answer is no. Locke's theory of private property (ownership through improvement), for example, was used to justify colonialism. Claiming a right does not always secure *right*, in the sense of a just outcome. Rights such as the right to housing must be interpreted and applied in the context of a broader project of human rights, which links them to goals of self-preservation and human flourishing. If we understand rights broadly, as 'high cards' rather than trumps, then they are useful in guiding policy and advancing social justice. They do this by identifying fundamental interests that entail obligations for governments and priorities for non-governmental organizations. UN-Habitat has taken the correct approach in urging member countries to incorporate urban rights into domestic law. France's *Droit au Logement* and Brazil's City Statute are promising examples for expanding social and economic rights to the level of the city.

Gregory Smithsimon & Sharon Zukin

The City's Commons: Privatization vs. Human Rights

From the Zòcalo and Tiananmen to Tahrir, Taksim, and Maidan Nezalezhnosti, mass protest movements discover both their site and symbol in a centrally located public space in the nation's capital. But local laws and practices do not acknowledge any right to public space, even though the UN Declaration of Human Rights recognizes rights to freedom of speech and peaceful assembly that can only be enjoyed through access to it. In most cities, apart from outright repression, the exercise of human rights is challenged by a blurring of responsibility for public space between the public and private sectors, and a gap between global rights and local governance.

Introduction

Whether they are streets, parks, or public squares, public spaces sit between the governments that rule and those who challenge their authority. Public space is the city's commons, where dissident views find a voice. Therefore, the right to occupy public space offers the basis of citizenship in the broadest sense.

Yet, in recent years, city governments around the world have increasingly supported the privatization of public spaces. Privatization may involve transferring ownership, management, or control of an existing space from the local government to a private business owner or private non-profit organization. Or it may involve new public spaces built, owned, or managed by private businesses rather than by the public sector. Sometimes these privatized public spaces are physically separated from city streets by gates or walls. In other places, they are open to the public, but only during limited hours. They are under surveillance both electronically and by private security guards. Although privatization may reflect a city government's lack of

money to maintain public space, on the one hand, or its willingness to cede social control to businesses on the other, management of nominally public space as if it were wholly private property restricts the exercise of human rights.

Privatization limits human rights more subtly than direct prohibition, but just as effectively. When the Ukrainian President Viktor Yanukovych abruptly outlawed most forms of public protest in January 2014, the decision was interpreted as an infringement of the human right to free speech, and there was widespread international outcry. But when the government of Turkish Prime Minister Recep Tayyip Erdoğan tried to transform Istanbul's Gezi Park into a shopping mall and luxury flats, amid a background of official actions against freedom of the press and of assembly, the commercial redevelopment was not considered a human rights issue. Business trumped human rights.

In this essay we begin with observations on how one protest movement - Occupy Wall Street - used public space to create a local commons for global human rights. We then review the ways in which today's regimes of privatization limit the right to freedom of speech and peaceful assembly by occupying public space, and conclude with the suggestion that the global movement for human rights should join local initiatives to free public spaces from private control.

Occupying the public square

In 2011, the Occupy movement won support in many cities around the world for reshaping centrally located public spaces that were associated with global financial power into multidimensional public squares that were both democratic in scope and equally local, national, and global

in scale. The initial protesters who formed Occupy Wall Street in New York raised their voices against the financial domination of a small elite - the 'one percent'- who control the major share of wealth in the US and influence the government's decisions. They established an encampment in Zuccotti Park, a small but prominent piece of land in the city's historic financial district.

Occupying the park was a means and condition to exercise rights to freedom of speech and assembly, which are embedded in both the UN Declaration of Human Rights and the first amendment to the US Constitution. Like occupations elsewhere, notably in public squares of the Arab world, Occupy Wall Street created a place of encounter between sympathizers, curious visitors, and those activists who *occupied* the centre of media attention for many weeks. During this time, Zuccotti Park became New York's public square. Yet the park sits in a legal limbo as a privately owned outdoor space that is open, under city zoning law, to the public. It is not clear whose law applies there: a law of public use or private property? Can the public international law of human rights be used by protestors to contest the private property owners who ask the police to evict protestors from a 'public' space?

In global financial capitals, the answer is no. The New York Police Department waited two months for the owners of Zuccotti Park to request action before they cleared the park and arrested everyone who had been inside. In London, a high court injunction prevented Occupy protesters from even entering Paternoster Square, a privately owned, open space like Zuccotti Park in that city's historic financial district. These two nominally but not legally public spaces are not unique. Hybrids like them are proliferating in cities large and small. We now turn to two examples of such hybrids of privatized public urban spaces: bonus plazas and business improvement districts.

Bonus plazas

Zuccotti Park is a 'bonus plaza' which allows private developers to build larger, taller buildings than zoning laws otherwise allow, in exchange for providing open public space at street level. These 'plazas' are usually connected to office towers. They may be indoors or outdoors. They may offer benches, tables, or movable chairs, sell beverages and sandwiches at small kiosks or cafés, and offer entry to stores. Most US cities and many outside the US have bonus plaza programmes, and each city devises its own rules. The advantage for developers is that they are allowed to build more rentable space; the advantage for city governments is that more 'public' space is created and paid for by businesses. Attractive public spaces also increase property values for the building owner.

In New York, the rules that have governed bonus plazas since the 1960s require building owners to keep the plazas open for everyone to use. Signs must be posted that show the area is a public space, although these signs sometimes also state limited hours when members of the public can enter. In reality, the bonus plazas are often empty or underused. This reflects unwillingness on the part of most developers and building owners to design and maintain a space that truly encourages public use, in part because such a space could be 'occupied' by unpredictable strangers; the homeless, dirty, or politically offensive (Kayden 2000; Whyte 1988; Shepard & Smithsimon 2011).

During the 1980s, when homelessness in US cities increased dramatically, bonus plazas were specifically designed to repel rather than to encourage public use. Vigorous policing in recent years, the increased use of electronic surveillance, and more aggressive removal of homeless people has led to more attractive designs while also limiting opportunities to use these spaces in ways that building owners would not approve.

On paper, local laws governing bonus plazas ensure open access and broad use. In practice, access is sometimes restricted for groups that are deemed suspicious, dangerous or simply unwanted. This raises serious human rights concerns with regard to, for instance, non-discrimination and equality.

BIDs and parks conservancies

Since the 1980s, New York mayors have encouraged the formation of public-private partnerships in the form of business improvement districts (BIDs) to manage the public space of

shopping streets throughout the city. At the same time, and for the same reasons, the city government has supported the formation of private, non-profit conservancies to manage a small but growing number of public parks in partnership with the city's Parks Department (Zukin 1995, 2010).

Private management not only cleans the streets and parks, it also builds amenities for consumption. BIDs engage the public in a "pacification by cappuccino" (Zukin 1995), and provide elegant landscaping, by contrast with less well-funded public spaces (Loughran 2014). Because they are financed not by the state, but by commercial building owners and their tenants, BIDs have been adopted in many cities, from the Netherlands to South Africa (Ward 2011).

BIDs and conservancies work together with city government agencies, including the police department, to accept or reject specific uses of the public space that they manage. Their operational influence on local norms of 'acceptable' public use gives them a significant authority over the universal human rights of free speech and assembly. Their private security guards evict people who they think are violating these norms, from sunbathers who show too much skin to homeless people who are sleeping on park benches.

Privatization and securitization of urban space

Privatization of urban public space has expanded together with the securitization of both public and private spaces (as highlighted by Rivke Jaffe and Erella Grassiani in this volume). Since the 1970s, private security guards have been one of the ten fastest growing occupations around the world. Alongside doormen in New York or armed guards in Sao Paulo, residents protect their homes with burglar alarms and 'safe rooms', and patrol their neighbourhood streets in teams, sometimes with guns. Their diffuse fears have propelled the growth of gated communities in all regions of the world.

In the absence of gates, municipalities and private property owners have built many new kinds of fortifications against potential robbers and terrorists. Shoppers in larger stores

routinely pass uniformed security guards. So do students entering university buildings, and visitors entering hospitals and office towers. In US cities, BIDs and parks conservancies also hire security guards.

The awkward physical barriers that cities have erected to thwart terrorists also inhibit the right to gather in public spaces. Government centres and financial districts are heavily barred, and are now designed to facilitate the barring, isolation, and removal of 'disruptive' public uses. London's 'Ring of Steel', created in the 1990s during the last terrorist campaigns of the Irish Republican Army, and Manhattan's adaptation, installed after the deadly terrorist attack on the World Trade Center in 2001, use thousands of surveillance cameras to track movement through central business districts. If everyone is tracked, everyone must be a potential terrorist. Anti-terrorist installations such as London's and New York's 'ring of steel' preclude social activism by enacting surveillance, personally identifying activists, and creating archives of 'criminal suspects'. This anti-terrorist infrastructure has a chilling effect on the freedom of speech. If local practices prioritize pre-emptive securitization of the streets, there is no space to exercise universal human rights.

Conclusion: a right to public space

Nowhere are the global and the local more intimately joined than in the exercise of free speech and assembly. But only recently has the discourse of universal human rights, centred in the UN, explicitly recognized the access to public space as a necessary condition for human rights, as well as the right to safety and free movement in cities' public spaces. For example, UN Women, which advocates for gender equality and women's empowerment, now emphasizes a need for 'Creating Safe Public Spaces'. UNESCO specifies "inclusion through access to public space" as a strategy for the social integration of migrants. The UN Human Settlements Programme envisions "sustainable urban development through access to quality urban public spaces." In each case, urban public space is a material base for achieving the human right of full, individual development.

In the [World Charter on the Right to the City](#), UNESCO and UN-Habitat negotiate this relationship from the other direction. They lay out *rights to the city* (see also the contributions of Huchzermeyer and Kohn in this volume), which are to a significant degree the rights to public space. Article 1 includes the right to establish unions, the right to information, political participation, and peaceful co-existence, and the right of people to organize together and demonstrate their opinions. Where else can men and women do this, but in public spaces? Even in the age of social media, organization and demonstration require physical spaces. The public square is not just a metaphor, it is a central space, paved or landscaped, where people are free to gather. It is a commons - the *people's* space - which ultimately anchors the public sphere.

During the past 40 years, city governments have abdicated both their fiscal and their moral responsibility to protect citizens' basic rights. Migrants, protesters, and socially marginal groups have been excluded from the body politic and repressed. Today, however, some of the ideas that support privatization - the assumption that the private sector is efficient and beneficent, and that social equity is less urgent than market freedoms - have been called into doubt by a newly elected mayor in New York and city councillors in Portland and Seattle. Also the dysfunction of financial institutions is increasingly seen as being problematic by both voters and public officials. This creates momentum to defy and reverse the privatization of cities' public spaces. To do this requires a rebalancing of local governance of public space and global norms of human rights. Only by joining the global and the local can we create spaces for both development and citizenship, the spaces in which human rights are practised.

Stephen Graham

Human Rights and the New Military Urbanism

How do the urbanization of our planet, the growth of inequalities, and the increasing preoccupation with cities amongst security and military forces intersect with threats to human rights across the world? This essay focuses on understanding how human rights are being threatened by claims that conventional laws and freedoms need to be compromised because of purported security risks. Such human rights threats are woven into the changing geography and architecture of cities, which increasingly become like giant airports: archipelagos of fenced enclaves linked by check points and guarded by militarist security techniques.

Introduction

As our planet urbanizes more rapidly than ever before, a new and insidious trend is permeating the fabric of cities and urban life. Fuelled by, and perpetuating, the extreme inequalities that have mushroomed as neoliberal globalisation has extended across the world, this 'new military urbanism' is a constellation of ideas, techniques and norms of security and military doctrine.

As I demonstrate in my book *Cities Under Siege* (2011), these ideas, techniques and norms centre on the notion that contemporary cities are the key strategic centres of our world; that security and military forces need to be redesigned specifically to control burgeoning cities; and that states must permanently mobilise against a wide range of lurking threats within cities and the infrastructures and flows that lace them together.

Crucially, such thinking increasingly blurs 'homeland security' drives in domestic urban areas, the widening reach of global electronic surveillance and intelligence gathering, and urban counterinsurgency operations in war-zone cities. Policing becomes increasingly paramilitarized, warfare centres on attempts to control urban civilian populations, and notions of the global and the local threats blur more powerfully together.

National security states thus increasingly concentrate on trying to remake cities and urban security practices to pre-emptively snuff out a range of perceived threats – political protests, social unrest, cyber attacks, terrorism, disruptions to major events, infrastructures and spectacles and so on. Such policies are mobilized in order to try and interrupt events and flows deemed to be threatening whilst maintaining the on-going flows and connections necessary to sustain key strategic cities and geographic sites in terms of finance, logistics, communications, power, tourism, and corporate and tourist travel.

Security cities

With the new military urbanism linking Western cities and those on colonial frontiers, fuelled by the anti-urbanism of national security states, it is no surprise that cities in both domains are starting to display startling similarities. In both, hard, military-style borders, fences and checkpoints around defended enclaves and 'security zones', superimposed on the wider and more open city, are proliferating. Jersey-barrier blast walls, identity checkpoints, computerized CCTV, biometric surveillance and military styles of access control protect archipelagos of fortified enclaves from an outside deemed unruly, impoverished, or dangerous.

In the former case, these encompass green zones, war prisons, ethnic and sectarian neighbourhoods and military bases; in the latter they are growing around strategic financial districts, embassy zones, tourist spaces,

airport and port complexes, sports event spaces, gated communities and export processing zones.

Imagining cities as threats

Crucially, trends linking security and military doctrine in cities with those on colonial peripheries are backed up by the cultural ideas about cities which underpin the political Right and Far-Right, along with hawkish commentators within Western militaries themselves. These tend to deem cities *per se* to be intrinsically problematic spaces – the main sites concentrating acts of subversion, resistance, mobilization, dissent, ethnic and racial difference, and protest challenging national security states.

In rendering *all* mixed-up cities as problematic spaces beyond the rural or exurban heartlands of authentic national communities, telling connections representing cities within colonial peripheries and capitalist heartlands are forged. The construction of sectarian enclaves modelled on Israeli practice by US forces in Baghdad from 2003, for example, was widely described by US security personnel as the development of US-style 'gated communities' in the country. In the aftermath of the devastation of New Orleans by Hurricane Katrina in late 2005, meanwhile, US Army Officers talked of the need to 'take back' the city from Iraqi-style 'insurgents'.

Urban research amongst militaries and security forces

In such a context, and given the increasingly extreme social inequalities already highlighted by other authors contributing to this volume, it is no surprise that Western military theorists and researchers are now particularly pre-occupied with how the geographies of cities, and especially the cities of the Global South, are beginning to influence both the geopolitics and the techno-science of post-cold war political violence. After long periods of preaching the avoidance of conflict in cities if at all possible, or their attempted annihilation from afar through missiles of strategic bombing, military doctrines addressing the challenges of military operations within cities are rapidly emerging from under what Jean Servielle (2004) termed "the dust of history and the (…) weight of nuclear deterrence".

Indeed, almost unnoticed within 'civil' urban social science, a large 'shadow' system of military urban research is quickly being established. Funded by Western military research budgets, this is quickly elaborating how such effects are allegedly already becoming manifest, and how the global intensification of processes of urbanization will deepen them in the future. As Keith Dickson (2002), a US military theorist of urban warfare puts it, the increasing perception within Western militaries is that, "for Western military forces, asymmetric warfare in urban areas will be the greatest challenge of this century (…). The city will be the strategic high ground – whoever controls it will dictate the course of future events in the world".

The central consensus amongst the wide variety of Western military theorists pushing for such shifts is that "modern urban combat operations will become one of the primary challenges of the 21st century" (DIRC 1997:11). Major Kelly Houlgate, a US Marine Corps commentator, notes already that between 1984 and 2004 "of 26 conflicts fought over by US forces (…) 21 have involved urban areas, and 10 have been exclusively urban" (Houlgate 2004).

In addition to the massive military and geopolitical catastrophe that is the overwhelmingly urban war in Iraq, military operations to note here include iconic operations like the US military's 'Black Hawk Down' humiliations in Mogadishu in 1991, their operations in Kosovo in 1999 and Beirut in the 1980s, and their various recent operations in the Caribbean and Central American regions (Panama City (1989), Grenada (1983) and Port-au-Prince (1994). Influential urban conflicts such as those at Grozny in Chechnya (1994), Sarajevo (1992-1995), Georgia and South Ossetia (2008), and Israel-Palestine (1947- to present) also loom large in current military debates about the urbanization of warfare.

The US military's focus on military operations within the domestic urban sphere is also being dramatically strengthened by the so-called 'war on terror'. This deems cities and their key infrastructures to be key 'battlespaces' whether they are located at home or abroad. Through such an analytical lens, the Rodney King riots of 1992

in LA; the various attempts to securitize urban cores for major sports events or political summits; the military responses to Hurricane Katrina in New Orleans in 2005; or the challenges of 'homeland security' in US cities, all become 'urban' or 'low intensity operations' as much as counterinsurgency warfare on the streets of Baghdad (see Boyle 2005). 'Lessons learned' reports drawn up after military deployments to contain the Los Angeles riots in 1992, for example, credit 'the success' of the mission to the fact that 'the enemy' - the local population - was easy to outmanoeuvre given their simple battle tactics and strategies (Cowen 2007: 1). High-tech targeting practices like unmanned drones and organized satellite surveillance programmes, used previously to target spaces beyond the nation to (purportedly) make the nation safe, are also starting to colonize the domestic spaces of the nation. Military doctrine also now often treats the operations of gangs within US cities as forms of 'urban insurgency', 'fourth generation warfare' or 'netwar' directly analogous to that on the streets of Kabul or Baghdad (Manwaring 2005).

Inner city orientalism

Such trends of domestic urban militarisation are fuelled by a new 'inner city Orientalism'. This relies on the widespread depiction amongst security or military commentators of immigrant districts within the West's cities as 'backward' zones threatening the body politic of the Western city and nation.

In France, for example, post-war state planning orchestrated the mass, peripheral, housing projects of the *banlieues* effectively as 'near peripheral' reservations attached to, but distant from, the main metropolitan cores of the country (Kipfer & Goonewardena 2007). Here bitter memories of the Algerian and other anti-colonial wars live on in the discourses of the French Right about waning 'white' power and the 'insecurity' caused by the *banlieues*; a process that has led to a dramatic mobilization of state security forces in and around the main immigrant *banlieues* housing complexes. Discussing the shift from external to internal colonization in France, Kristin Ross (1996:12) points to the way in which France now "distances itself from its (former) colonies, both within and without". This has operated, she writes, through a "great cordoning off of

the immigrants, their removal to the suburbs in a massive reworking of the social boundaries of Paris and other French cities". The 2005 riots (see also the interview with Parag Khanna in this volume) were only the latest in a long line of reactions towards the increasing militarization and securitization of this form of internal colonization and enforced peripherality within the 'badlands' of the contemporary French Republic (Dikeç 2007).

However, similar trends have long operated well beyond France. In all Western nations, it is the postcolonial diasporas, and their neighbourhoods, that are the main targets of the new, internal, and often highly racialized security politics (which grow more stark with the growing mainstream political success of the Far-Right). Along with a proliferation of increasingly militarized camps to process immigrants at home and abroad, they are amongst the key sites where the "codes of a colonial condition have infiltrated the metropolitan West" (Veracini 2005). In many nations, resurgent anti-urban or ethno-nationalist movements work to portray such communities as primitive threats to white power or as 'impure', 'primitive' contagions within some putatively 'pure' 'homeland.

'Invasion by immigration'

Worrying, such parties are gaining more and more mainstream success in elections across Europe as they exploit widespread disaffections with conventional austerity politics and traditional mainstream parties and are supported by xenophobic and racist media. However, extreme xenophobia and racism are also present amongst security and military theorists.

Indeed, such is the conflation of terrorism and migration these days that simple acts of migration are now even being deemed as *acts of warfare* within contemporary military doctrine. In *Understanding Fourth Generation War* (2004), William Lind, an influential theorist of war in the US wrote: "Invasion by immigration can be at least as dangerous as invasion by a state army". Under what he calls the "poisonous ideology of multiculturalism", Lind argues that immigrants within Western nations can now launch "a home grown variety of Fourth Generation war, which is by far the most dangerous kind".

This discursive shift has been termed the 'weaponization' of migration (Cato 2008). This is a shift away from emphases on moral obligations to offer hospitality to refugees toward criminalizing or dehumanizing migrants' bodies as weapons against purportedly homogeneous and ethno-nationalist bases of national power.

Here the latest debates about 'asymmetric', 'irregular' or 'low intensity war' within security and military journals, where nothing can be defined outside of boundless and never-ending definitions of political violence, blur uncomfortably into the growing clamour of demonization by Far-Right commentators of the West's diasporic and increasingly cosmopolitan cities.

Urban life as societal threat?

Such ideas quickly transpose the prosaic social acts that together forge urban life into existential, societal threats. Acts of crime are rendered as acts of 'war'. All too easily, counter-terror and anti-immigration laws, and surveillance increasingly blur into joint state activities centred on tracking, monitoring and targeting the Orientalized other in the name of 'security' (Veracini 2005).

Thus, racial profiling is used to shape ID checking programmes on city streets. Special surveillance and mapping systems are installed in certain parts of cities to scrutinize racialized neighbourhoods and communities (the UK Secret Service's covert CCTV system in parts of Birmingham and LAPD's mapping system for 'Muslim' parts of LA spring to mind). Pressure is also placed to undermine national visa waiver policies for certain 'races' within a national citizenry (the US has considered abandoning visa waiver policies for UK citizens of Pakistani origin).

Laws and traditions based on notions of human rights or the rights of national citizenship are now routinely eroded or suspended and replaced by explicitly colonial tropes. In Italy, such demonization is already being translated into the specific registration of Roma groups and state-orchestrated violence against them.

'Security' as economy

Crucially, the new military urbanism is sustained by a rapidly growing new security economy. This encompasses sprawling, transnational industrial complexes fusing military and security companies with technology, surveillance and entertainment organizations; a wide range of consultants and industries who sell 'security' solutions as silver bullets to complex social problems; and a complex mass of security and military thinkers who now argue that war and political violence centre overwhelmingly on the everyday spaces and circuits of urban life.

As vague and all-encompassing ideas about 'security' creep into and infect virtually all aspects of public policy and social life, so these emerging industrial-security complexes work together on the highly lucrative challenges of perpetually targeting everyday activities, spaces and behaviours in cities and the circulations which link them together. The proliferation of wars sustaining permanent mobilization and pre-emptive, ubiquitous surveillance within and beyond territorial borders means that, as Georgio Agamben (2002) has put it, the imperative of 'security' now "imposes itself on the basic principle of state activity".

Amidst the global economic crash, so-called 'homeland security' industries – sometimes more accurately labelled by critical commentators the 'pacification industry' – are in bonanza mode. As the post 9/11 US paradigm of 'homeland security' is being diffused around the world, the industry – worth $142 billion in 2009 – is expected to be worth a staggering $2.7 trillion globally between 2010 and 2012. Growth rates are between 5 and 12% per year.

Thus, Israeli-designed drones created to vertically subjugate and target Palestinians are increasingly deployed by police forces in North America, Europe and East Asia. Private operators of US 'supermax' prisons are heavily involved in running the global archipelago organizing incarceration and torture that has burgeoned since the start of the 'war on terror'. Private military and security corporations heavily colonise 'reconstruction' contracts in both Iraq and New Orleans whilst also running security operations for Olympics and World Cups. Even the

'shoot to kill' policies developed to confront risks of suicide bombing in Tel Aviv and Haifa have been adopted by police forces in Western cities (a process which directly led to the state killing of Jean Charles De Menezes by London anti-terrorist police on 22 July 2005).

Meanwhile, aggressive and militarized policing against public demonstrations and social mobilizations in London, Toronto, Paris or New York now utilize the same 'non-lethal weapons' as Israel's army in Gaza or Jenin. Constructions of 'security zones' around the strategic financial cores of London and New York (see also the contribution of Zukin & Smithsimon in this volume), or around political summits, echo the techniques used in Baghdad's Green zone. And many of the techniques used to fortify enclaves in Baghdad or the West Bank are being sold around the world as leading-edge and 'combat-proven' 'security solutions' by corporate coalitions linking Israeli, US and other companies and states.

Importantly, the same constellations of 'security' companies are often involved in selling, establishing and operating the techniques and practices of the new military urbanism in both war-zone and 'homeland' cities. The main security contractor for the London Olympics– [G4S](#), more familiar under its old Group 4 moniker – the world's largest security company, is an excellent example here. Beyond its £130 million Olympic security contracts, it operates the world's largest private security force – 630,000 people - taking up a myriad of outsourced contracts. It secures prisons, asylum detention centres, and oil and gas installations, VIPs, embassies, airports (including those in Doncaster and Baghdad) and infrastructure and operates in 125 countries.[1]

Conclusion: threats to human rights

The new military urbanism is stealthy and insidious. Its effects often operate beyond democratic scrutiny and undermine democratic rights of dissent. Above all, the various elements of the new military urbanism outlined briefly here work together to stealthily constitute a new notion of 'normal' urban life. This is based on pre-emptive surveillance, the criminalization of dissent, the evisceration of civil rights, and the obsessive securitisation of everyday life to support increasingly unequal societies.

Such trends are clearly deeply troubling from the point of view of human rights. In the worlds of increasingly paramilitarized and globe-straddling policing, based on the kinds of pre-emptive surveillance revealed by the Snowden leaks, legitimate political and democratic protests are increasingly bundled together with violent terrorism and violent insurgency. Such conflations, legitimized by the idea that 'warfare' these days involves states mobilizing 'asymmetrically' against a myriad of lurking non-state threats, lead all too easily to the suspension of rights of protest, due process and habeas corpus. These occur as 'special' and 'emergency' powers, and are routinized and generalized to undermine human rights built up over centuries through mobilization on urban streets.

The prime challenge for those struggling against such trends, therefore, is to demonstrate that they are not an inevitable given in the nature of things. Rather, they are elements of a wider project of market-fundamentalist neoliberalism which, whilst deeply flawed, rumbles on without (yet) a fully fledged competitor.

For human rights organizations in particular, three lessons are stark and clear. First, efforts to challenge all aspects of anti-democratic shifts in policing, intelligence gathering and the blurring of policing and military action must be informed by the crucial roles that ideas about cities and urban life have in shaping these shifts.

Second, such efforts must fully address the crucial importance of urban democratic rights as pivotal bases for human rights in contemporary societies. The legal and geographic aspects of these shifts need to be seen together. What, after all, is the point of notional legal bases for democratic and human rights if the geographies of

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1   According to its [website](#), G4S specializes in particular in what they term "executive style life-support in hazardous environments" (Presumably, this refers to Baghdad and not East London). After buying up the ArmorGroup mercenary company in 2008, it also now runs a large number of Blackwater-style security operations in Iraq.

cities are progressively and stealthily re-engineered to be like giant airports - archipelagos of fenced enclaves linked by checkpoints - as the norms of the new military urbanism are established into geographic 'facts on the ground'?

Finally, human rights struggles must be specifically aware of how notions that contemporary cities face vague and boundless threats requiring 'emergency' solutions, which prevail in mainstream media as well as in security and military doctrine, work as justifications to dismantle human rights. History demonstrates that such acts of dismantling are much harder to reverse than instigate.

Rivke Jaffe & Erella Grassiani

Securing the City: Challenges to Human Rights

Walking through Downtown Kingston, you might see a tank roll past on its way to an inner-city neighbourhood. In Jerusalem, entering the bus station involves passing through a metal detector and having your bags scanned by private security. As these examples indicate, militarization and privatization of security are especially visible at the urban level. What are the implications of these processes for human rights in cities?

Introduction

In cities across the world 'security' has become an increasingly central concern, legitimizing various measures, such as increased surveillance, pre-emptive regulation and even military intervention. Two main trends can be identified as both citizens and governments prioritize urban security: the militarization of urban space and the privatization of security provision. These trends are particularly evident at the urban level, as security risks involving crime and terrorism are increasingly projected on the city rather than on the nation state. The measures associated with these trends often involve a trade-off between security and human rights, including the rights to privacy, freedom of movement and equal treatment before the law. The militarization of urban security involves a move towards more aggressive and intrusive forms of policing and punishment, which tend to intensify socio-economic and ethnic divisions. Meanwhile, urban residents increasingly rely on private as well as public security providers. This shift towards the private provision of urban security often diminishes transparency and accountability. Below, we sketch these two trends, followed by two brief urban case studies – of Jerusalem and Kingston – that illustrate how the militarization and privatization of urban policing affect human rights.

Militarizing the city

The militarization of urban space can be defined as the visible integration of security elements into the built environment, with the aim of defending certain groups of residents against the perceived threat posed by other groups. This trend of militarization relates to shifts in urban governance as well as a changing military logic. In recent decades, war has become increasingly urbanized, as 'enemy combatants' or 'terrorists' mix with civilian populations and cities become military battlefields. Well-known recent examples include cities in the Balkan, Iraq, Palestine and Syria. Importantly, this has meant that the boundaries between combatants and civilians, and between battleground and home front, have become increasingly ambiguous. In addition, the military tactics and technologies designed for these urban conflicts have travelled from cities such as Baghdad and Gaza City to London and New York (Cowen 2007). The urbanization of military conflict is accompanied by the blurring of 'external' threats such as terrorism and 'internal' threats related to crime. This blurring of terrorism and crime in policies aimed at urban security can be seen in, for example, the mobilization of military forces to prevent football violence or the extension of possibilities for police officers in urban areas to frisk people without specific suspicions. This blurring has also entailed both new entanglements and increased competition between military intelligence agencies and the police (Fussey 2013; Altheide 2006; Eijkman, Lettinga & Verbossen 2012).

Stephen Graham (author of the previous chapter of this volume) sees such developments as part of what he terms the 'new military urbanism', which includes the use of "militarized techniques of tracking and targeting [to]

everyday life" (2011: xiv). As the city has become the central locus of security concerns, this militarization of everyday life includes highly visible or spectacular elements, such as the increased presence of uniformed personnel and military vehicles on city streets. However, the new military urbanism also involves the normalization of 'things military': the process by which citizens come to accept and even rely on the presence of military and security-related themes and logic in our daily lives. Civilians are increasingly accustomed to encountering military technologies and ideas in civilian space: not just strict security measures at airports or camera surveillance of public urban space, but also the use of drones to police cities.

This type of militarized urbanism has implications for the rights of city dwellers. The multiplication and diversification of urban 'threats' means that political protests are often policed through similar security measures and laws as those applied to terrorists, restricting freedom of opinion and of peaceful assembly. Militarized policing is generally applied differentially across the urban landscape, resulting in benefits to some and harm to others. Often, security techniques are focused on specific urban areas or populations that are branded as 'problematic' and isolated from the rest of the city, on the basis of class, ethno-racial or religious markers. Mike Davis (1992) refers to this as the destruction of democratic urban space. Urban planning and architecture – from public parks to shopping malls – are increasingly oriented towards the security needs of more privileged groups, undermining the ideal of freely accessible public space.

A newly militarized police force relies on stop-and-frisk techniques and punitive zoning laws to harass urban 'undesirables', often young people, racialized minorities, homeless people and other low-income groups. This type of discriminatory, pre-emptive policing – which in some cases culminates in extra-judicial killings by security forces[1] – involves several human rights risks: it limits the freedom

of movement of criminalized groups, subjects them to arbitrary arrest, and prevents their access to a fair trial by undermining the presumption of innocence. In addition, the proliferation of surveillance through CCTV and drones impacts on all urban residents' right to privacy.

Privatizing security

The militarization of urban life has coincided to a large extent with the privatization of policing. Urban residents' lives and property are no longer protected primarily by the public police. Increasingly they are also protected – as well as endangered – by formal and informal private security providers. While the state's monopoly on the provision of security has always been more imagined than real, neoliberal policies have meant that citizens and businesses are now actively being 'responsibilized' for safeguarding their own physical integrity and material belongings (Garland 1996). This transfer of responsibility for security from state to non-state actors has resulted in a diversification of the agencies and agents that deliver security and policing services. This diversification is often characterized as a shift from *police* to *policing*: the activity of policing is performed by actors other than the police. State actors such as the police and the military still play a role in security provision, but are often outflanked by non-state providers such as private security companies, neighbourhood watches and vigilante groups.

The private commercial security industry in particular has come to play a prominent role within this shift from police to policing, and their prominence is especially visible in urban contexts.[2] In many cities, private security guards and armed response officers far outnumber the public police, and they have taken on many functions traditionally associated with the police, from crime prevention to apprehending suspects. In certain cases, the police and private companies enter into collaborative relationships,

1   'Police shot Brazilian eight times', *The Guardian*, 25 July 2005. Available at:
www.theguardian.com/uk/2005/jul/25/july7.uksecurity5.

2   However, mining enclaves form an important non-urban site where private security companies also tend to have a larger presence than the public police. The discussion here does not focus on private military companies, which also have a significant non-urban presence.

with private security bolstering state authority. In other cases, they function as rivals, as private companies compete for contracts and entice police and soldiers to become private guards with offers of better salary and equipment (Jones and Newburn 2006).

Especially in contexts where police corruption is widespread, citizens may place more trust in non-state security agents than in the police. In transitional democracies and other contexts where police legitimacy is low, non-state security providers can play a positive role (Baker 2010). In some cases, the private security industry may be at least as effective and accountable as the public police. However, in contexts where the industry is not regulated strictly, it is often plagued by serious problems in terms of effectiveness, professionalism and democratic accountability (Loader 2000; Stenning 2000). The plural and fragmented nature of private security provision tend to complicate regulation, in part because many regulatory bodies tends to operate at the national rather than the urban level.

While many private security officers themselves are often underpaid and risk their lives on a daily basis, they are also involved in human rights abuses. In cities where citizens have limited confidence in the state justice system, private security providers may act as vigilantes, using violence to punish suspected criminals. More generally, private security often poses a threat to social equity (Loader 2000). When security is no longer seen as primarily a state responsibility or a democratic right, it becomes a commodity that only the well-to-do can afford. In addition to benefiting wealthier citizens more than the urban poor, private security can also exacerbate ethno-racial inequalities. Although private security guards are often members of underprivileged populations, their everyday practices often involve ethnic and racial profiling as guards target criminalized groups as security threats. In particular, young men from such groups are harassed or denied entrance to urban spaces of leisure and consumption by private security forces, exacerbating the ethnic and racial profiling common amongst many public police officers (O'Dougherty 2006; Kempa and Singh 2008; Open Society Institute 2009). While it is already difficult to hold the police accountable for human rights abuses, this

is perhaps even more so in the case of private companies, given that (international) human rights law is still predominantly focused on state authorities.

In what follows, we present two brief urban case studies of militarization and privatization. As we note above, these processes are especially evident in cities, which have increasingly become the focus of security policies. The cities discussed here, Jerusalem and Kingston, are somewhat extreme examples of these processes. Although they differ markedly in terms of social, political and economic context, both are cities characterized by high levels of insecurity, the blurring of anti-crime and anti-terrorism policies, and an extensive private security industry. As such, they present useful cases that provide a more in-depth illustration of how militarization and privatization shape and impede human rights.

Case 1: Jerusalem

East Jerusalem is part of the Occupied Palestinian Territories (OPT), which have been under the control of Israel since 1967. Palestinians living in this part of the city – where the Old City and some of the world's most important religious sites are located – have a permanent residency status. They do not enjoy full citizenship rights within the Israeli state. Jewish settlers have increasingly claimed territory within East Jerusalem as their own. Importantly, under international law these and all other settlements in the OPT are illegal. As the result of these settlements, numerous Palestinians have been evicted from their homes and suffer decreasing access to services such as education and water.[3]

In addition to these problems, increasing numbers of private security personnel patrol the streets of East Jerusalem. It is estimated that some 350 Israeli private security officers protect approximately 2000 Israeli settlers

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3   UN Office for the Coordination of Humanitarian Affairs, 'Settlements in Palestinian residential areas in east Jerusalem', April 2012. Available at: www.ochaopt.org/documents/ocha_opt_ej_settlements_factSheet_april_2012_english.pdf.

living in the heart of Palestinian neighbourhoods.[4] These private guards take on what is generally seen as one of the core functions of the state: the protection of citizens. However, these private guards by no means protect the population of East Jerusalem equally: their main role is to protect one group of urban residents (Jewish settlers) from another group (Palestinians) whom they view as consisting of terrorists or enemy combatants.

As private actors operating in the OPT, the security activities of these guards are not governed by clear rules or regulations. The Association for Civil Rights in Israel (ACRI) has petitioned the Israeli High Court of Justice, arguing that the private guards' presence has a very negative impact on the daily lives of Palestinians. In the words of ACRI's attorney: "The operation of a private security force constitutes an unlawful privatization of core policing responsibilities (…) and violates the basic rights of Palestinians".[5] The report goes on to state: "The armed guards endanger Palestinian life and limb, and they harm the normal exercise of residential daily life due to the improper and illegal discretion they wield".[6]

The privatized military checkpoints in Jerusalem are another example of both the militarization of urban space and the privatization of security. While military checkpoints have long been a standard element within Jerusalem's urban landscape, since 2006 increasing numbers of these checkpoints have been privatized. Rather than being staffed by military personnel, the checkpoints are now run

by private security guards. These guards are expected to stop unwanted, suspect people from entering Israel from the Occupied Palestinian Territories. The military checkpoints that have been present in the OPT for decades are known for their facilitation of human rights abuses, including the arbitrary restriction of movement, the harassment of Palestinian citizens by soldiers, and the use of violence by soldiers (Grassiani 2013; Breaking the Silence 2012; Amnesty International 2014).

However, the recent privatization of security adds another layer to the problem. As private security guards replace soldiers, the privatized checkpoints can be understood as an effort to naturalize the occupation. They normalize the warlike situation, as sanitized language from the world of management (such as 'efficiency' and 'professionalism') is introduced. Human rights abuses are not necessarily worse at privatized checkpoints than at those operated by soldiers. However, these abuses become less visible as the occupation is presented, and increasingly perceived, as a 'normal' daily situation. In addition, accountability continues to suffer; it is more difficult to monitor private guards and to prosecute the human rights abuses that they commit as there is less supervision and their rules of engagement are often unclear.

Case 2: Kingston

While Kingston is in many ways quite different from Jerusalem, certain parallels appear in relation to the militarization of urban space and the privatization of security. In Kingston, insecurity is related to criminal rather than to political violence. The city has extremely high rates of violent crime, and is known as one of the world's 'murder capitals'. Crime is concentrated in inner-city neighbourhoods in Downtown Kingston, where the majority of residents are low-income, darker-skinned 'black' Jamaicans. Much of the violence is perpetrated by members of politically aligned criminal organizations. While national homicide rates have been around 60 per 100,000 population for over a decade, in certain inner-city communities local homicide rates are over 150 per 100,000 residents – rates as high as those in contexts of low-level war. Indeed, inner-city residents commonly refer to the urban violence as 'war'.

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4   Association for Civil Rights in Israel petition to the High Court (2012), 'High Court to State: Explain use of private guards in East Jerusalem', 13 December. Available at: www.acri.org.il/en/wp-content/uploads/2011/10/E-Jlem-Petition-Security-guards-ENG.pdf.

5   Association for Civil Rights in Israel petition to the High Court (2012), 'High Court to State: Explain use of private guards in E- Jerusalem', Available at: www.acri.org.il/en/2012/12/13/hcj-security-guards-jerusalem/

6   Association for Civil Rights in Israel petition to the High Court (2012), 'High Court to State: Explain use of private guards in East Jerusalem', 13 December. Available at: www.acri.org.il/en/wp-content/uploads/2011/10/E-Jlem-Petition-Security-guards-ENG.pdf

The warlike level of violence is also reflected in the militarization of urban public security provision. Public security interventions in Downtown Kingston are often joint military-police operations, and Jamaica Defence Force (JDF) personnel, weapons and armoured vehicles are increasingly utilized in the name of 'internal security'. In addition, the Jamaica Constabulary Force (JCF) frequently engages in warlike gun battles with suspected criminals. The numbers of inner-city residents killed by JCF members every year are very high. While local and international human rights organizations decry these police killings, citizens' desperation in the face of brutal crime has meant that many Jamaicans tolerate or support extrajudicial executions. Despite the recent establishment of an Independent Commission of Investigations (Indecom) to investigate these fatalities and other human rights abuses involving public security forces, the extremely low rate of convictions means the police can use excessive force with impunity.

Fear of crime has resulted in the retreat of wealthier, often lighter-skinned 'brown' Kingstonians into fortified enclaves in Uptown Kingston. These groups rarely trust the police to protect them effectively, and their gated residential communities, office complexes, restaurants and shopping plazas are all guarded by private security companies. There are nearly twice as many private security guards than JCF members. While security guards are themselves often from low-income urban environments, they are tasked with policing the border between Uptown and Downtown spaces, excluding poor black Kingstonians from the city's more privileged spaces on the basis of their appearance.

In Downtown Kingston, inner-city residents cannot turn to private commercial security for protection, while police legitimacy is very low due to their reputation of brutality and corruption. Many of these neighbourhoods are governed by 'dons', local leaders who are often linked to criminal organizations. Residents increasingly rely on these dons for the informal, extra-legal provision of security and dispute resolution. Even as dons are the source of much violence, they are also the only form of protection that many of the urban poor have against this same violence. Dons whose neighbourhoods have low levels of insecurity often enjoy

high levels of local legitimacy, but this is achieved through a violently punitive style of maintaining local order (Jaffe 2012).

The growth of both formal commercial security and informal, don-led security are directly related to a lack of confidence in the police. However, the range of competing irregular armed actors also generates additional insecurity. While the state security forces have a record of human rights abuses, these formal and informal non-state security providers also run counter to the rule of law and equal protection of all citizens, and tend to operate partially or completely outside of systems of democratic accountability.

Conclusion

As our case studies illustrate, the maintenance of urban order is no longer predominantly the domain of the police. Contemporary urban policing is characterized by both militarization and privatization, two trends that result in the blurring of distinctions between military and police responsibilities, and between public and private roles. In many cases, public police forces operate in a militarized style, using military weapons and techniques, or engaging in joint operations with soldiers. The urbanization of military logic has meant that suspected criminals are treated as enemy combatants, encouraging shoot-to-kill attitudes amongst the police. In addition to this entanglement of military and police operations, contemporary urban security provision often also involves a blurring of public and private roles. Even as they contribute to the privatization of formerly public urban spaces, commercial and extra-legal non-state security providers also assume a semi-public role as they take on the responsibility of protecting shopping plazas or entire neighbourhoods. In some cases, private security providers take on a broader governance role, competing with the state for the trust and support of local residents. Like the militarization of urban space, the privatization of urban security provision is often related to citizens' fear of crime and terrorism, and their frustration with the inability of state security forces to protect them.

While both trends are associated with human rights violations, in the absence of widespread local support

for more peaceful, democratic and accountable forms of policing, tackling such violations will be an uphill battle. Human rights law and practitioners have tended to concentrate on abuses perpetrated by agents of the state, and focused their efforts on the level of the nation state. As our analysis in this chapter and other contributions in this book demonstrate, human rights violations, as well as possible solution strategies, often play out at the urban scale. In addition, in many cases the blurring of public and private roles means that violations may be not enacted by state agents, but by private actors. Academics, lawyers, NGOs and governments concerned with human rights should take into account the urbanization and privatization of violence. Rather than directing their efforts exclusively or primarily at the national government and at the state security forces, they should also engage with municipal authorities. City-level local governments also have a responsibility to protect the human rights of urban residents, and to prevent and prosecute abuses by private security companies and violations related to the militarization of public space.

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