CITIES IN GLOBAL GOVERNANCE

CITY POWER AND POWERLESSNESS ON THE GLOBAL STAGE

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As various scholars have noted, a "new world order" of global governance is emerging that involves a wider and more decentralised cast of decision-makers focused on an ever-widening array of transnational problems, such as climate change, global migration, health pandemics, and sustainable development, among others (e.g., Slaughter, 2005). In this new global order, national governments and state-based international organisations are viewed as inefficient, unequipped to deal with existing transnational challenges, captive to elites and, in some cases, simply dysfunctional (Barber, 2014). Nation-states (and the international bodies that represent them) are finding that their independence, sovereignty and borders – the traditional virtues of statehood – are barriers to the types of cooperation required to solve the cross-border global problems we face today. State-on-state "gridlock", as well as the partisan paralysis that prevents many national governments and state-based international organisations from accomplishing their agendas, risk a more profound *"sovereignty default",* which can result in a failure to act or to effectively govern at the international level. This has created an opening for subnational actors, such as city governments and civil society organisations, to fill the gaps where the state has failed to act, and thereby become agents of international policymaking and problem-solving (Barber, 2017).

Unlike states, cities[1] are arguably sovereignty-free, less subject to partisan gridlock and more occupied with finding pragmatic solutions to everyday problems. Without sovereign obligations, cities can more easily cast ideological constraints aside, concentrate on concrete objectives, and get the job done. Cities are also more directly responsible for the key global challenges of our time, more directly accountable to the populations they serve, and uniquely situated to serve as mediators between the world's urban centres, where the human population is converging (Frug et al., 2010).

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[1] "Cities" is used in this text to refer to local governments and/or local leaders.

I. The rise of city networking

An ever-growing number of international city networks, or associations of cities that come together to work collaboratively and to learn from one another, are finding ways to inject their perspectives and expertise into international forums, agendas, campaigns and agreements (Acuto, 2017). Cities are forming alliances among themselves and with other subnational actors, such as regions and provinces, as well as the private sector and civil society, to collectively press national governments to address global challenges such as climate change and forced migration. As one of the newest forms of "global diplomacy" – the engagement and relationship with other actors on an international stage – city networking holds the potential to transform the traditional state-centric Westphalian system, which has been in place for over three centuries, in profound and lasting ways by creating opportunities for cities to shape and inform international policies.

City networks, particularly transnational ones, have proliferated in the last two decades. In 1985, there were roughly 60 international city networks, by the late 1990s this number had nearly doubled, and today there are over 300 (Harrison and Hoyler, 2018). Nearly 60% of the existing city networks were created between 1990 and 2003 (Labaeye and Sauer, 2013: 14), but a large number, over 50, emerged between 2006 and 2016, with around five new networks appearing each year (Acuto, 2019: 5).

In addition, more and more cities, especially large and mega cities, are creating municipal offices of international affairs (OIAs), which have designated staff devoted to cultivating important global connections with significant international actors and institutions, such as the United Nations. These offices also create and maintain relationships with other global cities, welcome incoming foreign delegations, organise international trips, prepare their elected leadership for meetings with foreign leaders, and maintain their city's involvement in international networks (Fishbone, 2017).

City networks are not new, of course. Some of the oldest existing networks in Europe and Japan were founded more than 100 years ago, and certain networks can be traced as far back as the 1800s (Acuto and Rayner, 2016: 8). The first international political platform for local governments, the International Union of Local Authorities (IULA), was founded in 1913; and another, the International City County Management Association (ICMA), which is still active today, emerged in 1914. In the last hundred or so years, spikes in city networking seem to coincide with certain large UN events, such as the two recent Earth Summits in 1992 and 2002, and the last two UN Habitat conferences in 1996 and 2016. These events, along with the rapid development of sophisticated communication and information-sharing technologies, reduce the costs of collaboration between cities and, as a result of this, they have facilitated the proliferation of city networks in recent decades (Labaeye and Sauer, 2013: 14).

City networks can be powerful global agenda setters, elevating and amplifying the voices of city leaders (and by extension their constituents) in international bodies like the UN, where certain large and

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well-resourced networks have successfully lobbied for, and in some cases obtained, a seat at the policymaking table. The C40 Climate Leadership Group (C40), United Cities and Local Governments (UCLG), and ICLEI – Local Governments for Sustainability are just a few of the global city networks that have successfully navigated their way into the halls of international policymaking, and in a few narrow cases, acquired legitimate opportunities for participation and input in what were previously states-only fora. For example, the UN Advisory Committee of Local Authorities (UNACLA), the World Assembly of Local and Regional Governments, and the Global Taskforce of Local and Regional Governments were created at the urging of cities and city networks to amplify the role and voices of cities in international policy debates. Through these new international-level coordination bodies, city networks endeavour to speak with a common urban voice and to ensure that their urban perspective and expertise is included in critical discussions on how to solve the world's most challenging problems, most of which are, in reality, urban problems.

Yet, questions and concerns linger regarding how much genuine power cities can and should have to shape the global governance agenda. While the *participation* of global city networks in international politics is clearly on the rise, the question of whether they can exercise actual *influence* remains debatable. Despite nation-states being increasingly mired in partisan gridlock and more and more incapable of agreeing on shared global policies, they continue to dominate the international policymaking process. However, cities are beginning to assert themselves and to make their voices heard: in certain cases – involving city-specific agendas, such as the New Urban Agenda – they actually participate in policy formation at the international level. In other words, cities are gaining more "soft power" on the international stage, even as they remain structurally powerless in the international system of governance and according to "black letter" international law. City diplomacy, which is led by the largest and most successful city networks, is the currency of cities' rising soft power, and is now cities' tool of choice to shape, or to attempt to shape, international policy on migration, climate change, and other global challenges.

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II. Cities as (structurally) powerless

As a structural matter, most cities around the world are relatively powerless vis-à-vis higher levels of government. This is true whether mayors and other city leaders are elected or appointed. Even with trends in some parts of the world toward devolution, subsidiarity, and decentralisation of power to cities and metro regions, states remain reluctant to cede power over fiscal matters and certain policy decisions, such as immigration, to subnational authorities.

Cities are agents of their states or national governments; whatever powers they embody are residual, revocable, and always bestowed, whether by law or fiat, by higher levels of government. The US is a representative example. Despite the fact that most states give their cities what is called "home rule" – a broad policy and regulatory sphere in which to autonomously operate – we have witnessed a virtual about-face by many states in recent years, whereby power has been revoked from cities when their

policies openly conflict with the state's or powerful private actors have lobbied and co-opted the state. We see this on display in what some are calling the "new preemption" in which states are reacting to exertions of city power in the area of immigration (for example, by creating "sanctuary cities"), health (by banning transfats), violence and security (by passing gun control measures), and civil rights (by granting LGBT rights) by taking power away from those cities, and in some cases punishing them by withdrawing financial support (Briffault, 2018).

It is no surprise that cities are not given a formal place within the myopically state-focused system of international relations. International law and policy are largely shaped by and for nation-states. Most international organizations, such as the UN, allow only states to become full members; and the entire international political framework is built around the idea that national governments are the dominant political actor and solitary representative of their states at the global level. Cities are nearly irrelevant to this framework, which views them as subordinate appendages of the state. Their exclusion is reflected in the core vocabulary associated with international politics – inter*nation*al relations, the United *Nations*, inter*nation*al law – signalling the reality that cities and other subnational forms of government are, at best, relegated to the sidelines. There are no structural mechanisms to ensure that cities have a formal and ongoing role in international decision-making and, with few exceptions, they are excluded from formal deliberation, negotiation, and the development of policy frameworks and tools. As one former Mayor aptly stated, "*cities are often on the menu but never at the table*".

For instance, consider the issue of migration, where cities should have a strong voice given that more than 60% of refugees and 80% of all internally displaced persons settle in urban centres. In some places, such as the US, more than 90% of all immigrants live in cities. Despite city leaders being the global experts in dealing with the challenges and potential migration flows bring, they are routinely excluded from international negotiations on migration policy. For example, cities were largely left out of the process of drafting a new Global Compact for Migration (GCM), which was formally endorsed by the UN General Assembly in December 2018. City leaders participated only at the invitation of their national governments, and in states that refused to participate (such as the US), this possibility was eliminated entirely (Brandt, 2018). Because they were largely excluded from this process, cities, which shoulder the lion's share of responsibility associated with global migration, are largely written out of international migration policy. The words "city", (or "cities") and "mayor" are entirely absent from the 36-page GCM, while the word "urban", astonishingly, appears only once.

This failure to recognise cities' key role in core global issues like migration can also be seen in other international policy documents. For example, the UN High Commissioner for Refugees' strategic plan on refugees similarly mentions "urban" refugees just once, while the Global Compact on Refugees (GCR), like its counterpart on migration, contains a solitary mention of "cities" (Muggah, 2018). Neither agenda envisages a significant role for cities or gives them meaningful autonomy in the shaping of international responses to the refugee crisis.

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The structural exclusion of cities is not for lack of cities trying to assert their voices in the international policymaking process. In 2017, the International Organization for Migration, together with the United Cities and Local Government (UCLG), assembled 150 cities to sign the Mechelen Declaration,[2] demanding a seat at the migration policy table. Likewise, in late 2017, a small delegation of cities, led by New York and including 100 Resilient Cities, sent recommendations to improve the overall wording and content of the Global Compacts previously discussed.[3] And in December 2018 over 150 mayors and city leaders adopted the Marrakech Mayoral Declaration, which calls for formal recognition of the role of local authorities in the implementation, follow-up and review of both Global Compacts.[4] This declaration was enthusiastically embraced by the UN High Commissioner for Refugees in a speech before the Marrakech Mayoral Forum, suggesting at least an acknowledgement of the potential role of cities in addressing the migration and refugee crises in their countries.[5]

This collective push by cities for some influence over global migration policy may have opened enough of a door to enable cities' voices to be heard. The GCR, despite containing only one mention of cities, does reference the need for "networks of cities and municipalities" that host refugees to "share good practices and innovative approaches" (UNHCR, 2018: paragraph 38). And the UN's New Urban Agenda, which emerged out of the Habitat III process, explicitly calls for greater cooperation between national and local authorities to address the challenges of forced migration. Yet, even these overtures to cities and their networks are carefully couched in nationalistic language. In the case of the former document, cities are invited to participate but only "[i]n consultation with national authorities and in respect of relevant legal frameworks" (GCR: paragraph 37).

Moreover, each and every one of the newly emerging international documents that mention cities and/or city networks, including the Global Compacts on Refugees and Migration and the New Urban Agenda, are, without exception, not legally-binding, meaning they are voluntary only. International law scholars refer to this as "soft law", or unenforceable law, which is honoured only out of a sense of voluntary commitment by the party accepting the obligation. Even for agreements that are legally binding, such as the Paris Climate Agreement, enforcement often depends on the collective will and commitment of the participating nation-states, and to some extent, the pressure exerted by their constituents and civil society groups. The non-binding or "soft law" nature of migration and climate agreements can be compared to international trade agreements, such as the General Agreement on Trade and Tariffs (GATT) and the World Trade Organization (WTO) rules. Under these trade agreements and rules, which could be characterised as "hard law", participating parties are subject to financial, retaliatory and other punitive measures if they violate the terms of their agreements. Moreover, complex and formal institutional bureaucracies underpin these agreements, providing ongoing monitoring and enforcement of them.

Ironically, the relatively "soft" nature of certain international legal agreements, such as those on climate and migration, might actually provide cities and city networks with the opening and the opportunity to exercise their power where nation-states are reneging on their obligations.

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2. The Mechelen Declaration was the outcome of the Global Conference on Cities and Migration, which took place in November 2017, and during which over 50 cities from Europe, North, Central and South America, Asia and Africa met in order to offer their perspectives and opinions on the topic of migration. The Mechelen Declaration is available at: https://www.iom.int/sites/default/files/press_release/file/Mechelen-Declaration-final.pdf.
3. The letter was submitted by mayors from 17 cities to the UN High Commissioner for Refugees. It can be read here: https://issuu.com/brookings/docs/mayors__letter_to_unhcr_w_signatori/2
4. The declaration can be found here: http://www.migration4development.org/en/node/47272
5 The commissioner's speech is referenced in this UNHCR news story: https://www.unhcr.org/news/latest/2018/12/5c0d06a34/unhcr-welcomes-global-mayors-commitment-refugees.html

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Where national governments are unwilling or unable to act or fulfil their international commitments, cities and their networks are stepping up, cooperating and allying to collectively push for certain policy outcomes and, perhaps most importantly, to ensure that the expertise and opinions of cities is taken into account in the international policymaking process.

III. The soft power of city diplomacy

As mentioned in the previous section, despite the fact that, *structurally*, cities (and their leaders) are relatively powerless vis-à-vis national governments and international institutions, they are nevertheless managing to exert considerable influence in pushing forward global agendas on certain cross-border issues like climate change and migration. As we argue elsewhere, cities are using soft law tools – international campaigns and agendas, declarations, statements, resolutions, and the like – to gain soft power in the international sphere, and in so doing, gain an increasingly vocal and influential platform on the world stage (Swiney and Foster, 2019). Soft law is directly connected to soft power, and vice versa: hard law is connected to hard power. The more soft law tools a political entity has, the greater its soft power; similarly, the greater the access to hard law tools, the more hard power an entity wields. While cities have begun to appear in an increasing number of international soft law instruments, including those mentioned above, perhaps more importantly they have been asserting their influence on the global stage through city networks.

Hedley Bull, one of the 20th century's leading international relations experts, divided diplomacy into five core functions, each of which city networks are manifesting in one way or another: facilitating communication, negotiating agreements, gathering information, preventing conflicts, and symbolising the existence of an international society (Bull, 2002). Through these five forms of diplomacy, cities are gaining influence and power not so much through the hard law of international agreements, but through the softer techniques of negotiation, lobbying, collective action and pressure campaigns (Nye, 2005). They are leveraging their enormous economic, cultural and technological influence to make sure the urban perspective is appreciated, and they are forming into powerful networks and allying with well-resourced and/or well-known private actors to amplify this critical perspective at the global level.

Consider the realm of climate change, where states have long struggled to reach an agreement with binding commitments to address one of the most dire threats to humankind. When the 114 heads of state failed to come to an agreement at the Conference of Parties meeting in Copenhagen (COP15), over 200 mayors attended a parallel climate summit where they jointly agreed on a set of collaborative goals. They worked together, and continue to work together, through transnational networks such as C40, ICLEI, and UCLG, to meet the goals of the key international climate agreements. Before COP21, which resulted in the Paris Agreement, states had already conducted 20 COPs without any significant achievements. The consistent collective action by cities was a significant factor, some have argued, in pushing nation-states to the historical agreement between nations reached at COP21 in Paris (Klaus, 2018).

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Cities continue to act even as states fail to do so. According to the latest *Climate Action in Megacities* report issued by C40, there is evidence that while climate action by states has stalled, C40 member cities have put in place over 8,000 climate actions, leveraging over $2.8 billion in funding and impacting millions of urban dwellers worldwide (C40, 2015: 10). But city-led activism goes beyond climate-related initiatives. For example, the Global Taskforce of Local and Regional Governments, a coordination and consultation mechanism launched in 2013, represents the joint voices of local and regional leaders from around the world at UN level on a variety of topics. It successfully lobbied for the inclusion of sustainable development goal (SDG) 11 on sustainable cities and human settlements, convenes the World Assembly of Local and Regional Governments, and was instrumental in drafting the New Urban Agenda. Some city networks, such as UCLG and Mayors for Peace, are among the over 4,000 NGOs that hold special consultative status at the UN Economic and Social Council, a status that provides them with access to many UN bodies, international events, and certain international mechanisms, such as human rights monitoring bodies.

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The recent formation of the Urban 20 (U20), a diplomatic initiative of global cities intended to mirror the G20, powerfully illustrates how cities are attempting to harness their newfound tools and power to engage directly with nation-states in tackling the most pressing global challenges. Convened by C40 in collaboration with UCLG, the inaugural U20 Mayoral Summit took place in Buenos Aires in October 2018, one month ahead of the G20 Heads of State Summit hosted by Argentina. At the inaugural gathering, mayors from 34 cities, representing 1.5 billion citizens, called on G20 member states to implement a series of measures on climate change, the future of work, social integration of migrants and refugees, female empowerment and access to finance. These recommendations were delivered to the president of the G20, who committed to sharing the U20 recommendations with world leaders at the upcoming G20 Summit. While it remains to be seen how much G20 leaders are influenced by these recommendations, one thing is clear. The U20 has broken new ground in evolving the global order to "reflect the reality of power in the twenty-first century" by creating itself "in the image of the G20: cities of political and economic power from geo-politically active countries working together on shared goals" (Klaus, 2018).

IV. Conclusion

Paradoxically, cities are both subordinate domestic governments *and* powerful independent international actors. They are formally and structurally constrained by an international system designed almost exclusively with states in mind, but informally and through a variety of alternative approaches, they are finding ways to exercise their authority and amplify their voices at the international policymaking level. Urbanisation has shifted social and economic power to cities and the officials that run them, and this has created an unprecedented opportunity for cities, especially when working together in networks, to influence the global agenda on questions of migration, climate change, global health, and a variety of other challenges.

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City networking is the currency of city diplomacy, and city diplomacy is the source of cities' rising soft power. This newfound "power", though soft and inchoate, allows cities to flex their collective social and economic strength, to amplify their collective voices, and to coordinate their collective goals on the international stage. Recent years have seen a proliferation in the number and activities of international city networks, which are gaining in confidence and assertiveness as their activism begins to pay off. Cities, through the Global Taskforce, the New Urban Agenda and the lobbying efforts of certain powerful city networks such as C40 and UCLG, have greater access to international policymaking and more influence on international policymakers than ever before.

There are limits, of course, to how far city diplomacy can go when the most powerful nation-states are reneging on their responsibility to keep humanity safe, healthy, and free of conflict. Structurally, cities and their leaders are still on the periphery of international organisations and take no formal part in voting on key policy matters. Moreover, the proliferation of city networks, while enhancing the ability of cities to flex their soft power on the global stage, may also begin to weaken the power of collective action if their efforts become too fragmented and duplicative. In other words, if new city networks continue to emerge in the numbers we have seen in recent years, there is a concern that a common urban voice could get diluted and eventually lost in the process. Perhaps instead, the focus should be put on consolidation and collaboration among the existing city networks so as to ensure that a unified urban perspective can be clearly and powerfully voiced at the international level. Until then, city networking is at a historic height, perhaps its apex. Mayors may not "rule the world" yet, but they are increasingly involved in the shaping and making of global agendas, an unprecedented event since the rise of the state-based Westphalian system well over three centuries ago.

References

Acuto, M.; Decramer, H.; Morissette, M.; Doughty, J. and Yap, Y.*City Networks: New Frontiers for City Leaders*. Connected Cities Lab, University of Melbourne: Melbourne Publishing, 2019 [forthcoming]

Acuto, M. *Global Cities, Governance and Diplomacy: The Urban Link*. London: Routledge, 2017.

Acuto, M. and Rayner, S. "City Networks: Breaking Gridlocks or Forging (New) Lock-Ins?" *International Affairs,* vol. 92, no. 5 (2016), pp. 1147–66.

Barber, B. *Cool Cities: Urban Sovereignty and the Fix for Global Warming*. New Haven, CT: Yale University Press, 2017.

Barber, B. *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities*. New Haven, CT: Yale University Press, 2014.

Brandt, J. "How American Cities Can lead on Migration". *Brookings*, *The Avenue*, 15 November 2018 (online) [Accessed 21 March 2019] https://www.brookings.edu/blog/the-avenue/2018/11/15/how-american-cities-can-lead-on-migration/

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Briffault, R. "The Challenge of the New Preemption". *Stanford Law Review,* vol. 70 (2018), pp. 1995–2027.

Bull, H. *The Anarchical Society: A Study of Order in World Politics*. Third Edition. New York: Palgrave, 2002.

C40. *Climate Action in Megacities: 3.0* (December 2015) (online) [Accessed 23 March 2019] http://www.cam3.c40.org/images/ C40ClimateActionInMegacities3.pdf

Fishbone, A. "City Networks: Evaluating the Next Frontier of International Relations". *Urban and Regional Policy*, German Marshall Fund of the United States, no. 2, 2017 (online) [Accessed 23 March 2019] http://www.gmfus.org/publications/city-networks-evaluating-next-frontier-international-relations

Frug, G., Ford, R. and Barron, D. *Local Government Law*. American Casebook Series. St. Paul, MN: West Academic Publishing, 2010.

Harrison, J. and Hoyler, M. (eds.). *Doing Global Urban Research*. Washington DC: Sage Publications, 2018.

Klaus, I. "The Urban 20: A Contemporary Diplomatic History". *Diplomatic Courier*, 31 October 2018 (online) [Accessed 21 March 2019] https://www.diplomaticourier.com/2018/10/31/the-urban-20-a-contemporary-diplomatic-history/

Labaeye, A. and Sauer, T. "City Networks and the Socio-Ecological Transition: A European Inventory". *Welfare, Wealth, Work for Europe,* Working Paper no. 27 (July 2013).

Muggah, R. and Adriana, E.A. "Refugees and the City: The Twenty-First Century Front Line". *World Refugee Council*, Research Paper no. 2. Centre for International Governance Innovation, 2018.

Nye, J. S. *Soft Power: The Means To Success In World Politics*. New York: Public Affairs, 2005.

Slaughter, A. *A New World Order*. New Jersey: Princeton University Press, 2005.

Swiney, C. and Foster, S. R. "The Urbanization of International Legal Relations: Cities' Rising Soft Power & Soft Law in the Global Context" in: Nijman, J. and Aust, H. (ed.) *The Elgar Research Handbook of International Law and Cities*, 2019 [forthcoming].

UNHCR- The UN Refugee Agency. *United Nations Global Compact on Refugees*, 2018 (online) [Accessed 23 March 2019] https://www.unhcr. org/gcr/GCR_English.pdf

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