29. City networks and the glocalization of urban governance

Sheila R. Foster and Chrystie Swiney

I   INTRODUCTION

A mere two months before his untimely passing, Benjamin Barber, the provocative American political theorist and author of *If Mayors Ruled the World*, reiterated his argument that the relationship between national and local governments has been inverted in the twenty-first century with many of our most progressive policies and laws coming from below:

> In the 19th and 20th centuries, local meant parochial. Local meant backwards. Local meant reactionary. The fundamental balance between national and local has been inverted. What in the 19th century was a defense of universal rights by a national government and resistance to that by racists and localists, today has been exactly inverted. Every progressive policy you can look for – whether it's the minimum wage, whether it's the defense of rights, whether it's the defense of immigrants – is now an urban one, a local one. And national government has become reactionary, not universal. It is not just the United States. National governments are increasingly parochial, and cities are increasingly cosmopolitan. It's exactly reversed, which gives cities a whole new role.[1]

Cities are the most essential cogs in the global economy, he argued, given that they are now the world's primary engines of wealth creation, the nations' largest taxpayers, the originators of the most progressive policies, and home to the world's leading universities and research hubs. Barber suggested that we reconfigure, or indeed reverse, our traditional conception of the hierarchical relationship between nations and the cities that comprise them in the international world order.[2] Cities, he argued, should no longer accept the second-class, disenfranchised, virtually invisible status given to them when the current international world order was erected by nation-states in the aftermath of World War II, a world order that continues to unsurprisingly place national governments at the pinnacle of global power and influence. Barber's passionate defense of cities' role in global governance was a pragmatic call to action. He recognized the declining productivity and rising insularity of many national governments, as well as their inability to agree or compromise when attempting to solve transborder challenges, including the most existential one among them, climate change.

Cities are now viewed as critical players in the modern trend to focus less on governments and more on 'governance', a capacious and inclusive concept used to characterize a 'new world order' in which a multitude of actors – state and non-state, national and sub-national, civil and governmental – exercise influence and power alongside, and in some cases in place

---

of, formal institutions of government.[3] Scholars of international law argue that the influence of cities, through their leaders, is shaping the behavior of other actors in the system, including states and international organizations.[4] International relations scholars also note that the shift towards governance originated out of an inquiry into 'the ways authority in international politics was affected by the processes of re-alignment following the end of the Cold War', which represented a decisive moment in global politics.[5] After the superpower deadlock and bipolar global order dissolved in the early 1990s, the restraints on who could access the previously exclusive halls of international policy making were loosened, and the variety of issues that could be raised widened.[6] From then on, no longer were national governments the exclusive shapers and makers of international policies but, instead, a diverse and eclectic hodge-podge of interested actors jumped into the international fray: non-governmental organizations, transnational corporations, epistemic communities and cities, among others. The study of global governance took shape during this era of expanding and evolving global politics, when a new heterogeneous array of participants became actively involved in the art and practice of governing the globe.[7]

Today, cities are forming alliances and networks with other sub-national actors, such as regions and provinces, as well as with the private sector and civil society. They are working together to collectively shape both national and international policies and to address cross-border issues, such as migration and climate change, policies that a century ago would have been the exclusive purview of nation-states.[8] City networks can be powerful global agenda setters, as we have written elsewhere, elevating and amplifying the voices of mayors and other local leaders.[9] However, there are significant questions about the impact that city leaders can, or do, have on laws and policies outside of the physical and legal boundaries that define them and the limited scope of their authority.[10] Their influence is perhaps most questionable at the international level, despite the proliferation of global city networks and attempted structural reforms at the UN designed to give cities a seat at the table. This is not to say that city networks lack *influence* with international institutions and global policy makers. Indeed, we point to specific examples below where that influence can be detected. Rather,

---

[3]   Anne-Marie Slaughter, *A New World Order* (Princeton University Press, 2004).

[4]   Helmut Philipp Aust, 'Shining Cities on the Hill? The Global City, Climate Change and International Law' (2005) 26 European Journal of International Law 255–278.

[5]   Michele Acuto, *Global Cities, Governance and Diplomacy: The Urban Link* (Routledge 2013) 20 (citing the UN Commission on Global Governance Report from 1995).

[6]   Deborah D. Avant, Martha Finnemore and Susan K. Sell, 'Who Governs the World?' in Deborah D. Avant et al. (eds), *Who Governs the Globe?* (Cambridge University Press 2017).

[7]   Mitchell A. Orenstein and Hans Peter Schmitz, 'The New Transnationalism and Comparative Politics' (2006) 38 (4) Comparative Politics 479–500; Sidney Tarrow, The New Transnational Activism (Cambridge University Press 2005).

[8]   Chrystie Swiney, 'The Urbanization Of International Law and International Relations: The Rising Soft Power and Soft Law Of Cities In Global Governance' (2020) 41 (2) Michigan International Law Journal.

[9]   Sheila R. Foster and Chrystie Swiney, 'City Power and Powerlessness on the Global Stage' in Eva Garcia Chueca and Lorenzo Vidal (eds), *Urban Futures: Alternative Models For Global Cities* (Barcelona Centre for International Affairs 2019).

[10]   Even Benjamin Barber admitted that cities' lack of formal power, given that they exist only as subsidiary civic entities inside states, 'incapacitates them' and allows them to govern outside of their borders only insofar as nation-states 'let them or look the other way' (n 2) 166.

we argue that influence over international law and policy may not be the most significant or powerful role that city leaders can play on the global stage or in regard to cross-border issues.

Global city networking and alliances are best understood, we argue, as critical spaces for the 'glocalization' of urban governance to occur. By urban governance, we refer to the actors, decision makers and institutions that shape the rules, laws and policies of a particular local place.[11] 'Glocalization' refers to the processes that connect the local to the global, and the global to the local, processes that are multidirectional and allow for cities and international actors to interact and influence each other.[12] This 'glocal' dimension of the relationship between local leaders, and between those leaders and higher levels of government, brings more clearly into view the role of cities and their networks on the global stage without exaggerating or romanticizing their level of influence on international institutions and international law. In other words, global city networks play an indispensable role in providing local leaders, most notably mayors, platforms for connecting cities across national and regional borders, enabling policy diffusion,[13] empowering cities to adopt (and adapt) policies to address shared challenges, and scaling those policies to higher levels of government.

Sometimes these policies run counter, ideologically and politically, to the position taken by their national governments, as in the case of 'sanctuary city' policies, which shield undocumented immigrants from national deportation policies. In other cases, city leaders are trying to get out in front of national, and sometimes international, institutions to more boldly respond to cross-border challenges by, for instance, setting more ambitious climate goals at the local level or divesting their cities from fossil fuels and investing in renewable energy. In either case, cities are inserting themselves as important actors in 'glocal' governance at a time when international and national institutions are perceived as failing to adequately address urgent challenges that transcend borders and most intensively impact cities, such as escalating inequality, mass global migration, affordable housing shortages, health pandemics and, as previously mentioned, climate change.

A   Situating Cities in the Study of Global Governance

Notably, the earliest body of global governance literature almost entirely ignored the rising role and influence of cities and local governments on the global stage, instead focusing pri-

---

[11] Urban governance includes not only the traditional, hierarchical forms of decision making by public actors, but also the influence of other non-governmental actors and sectors (the media, NGOs, investors and donors, industry, knowledge institutions) on those actors and their decisions; Helmut Philipp Aust and Anèl du Plessis, 'Introduction' in Helmut Philipp Aust and Anèl du Plessis (eds), *The Globalisation of Urban Governance: Legal Perspectives on Sustainable Development Goal 11* (Routledge 2019) 6–7.

[12] Glocalization is rooted in the recognition that global ideas, policies and practices eventually must adapt to a specific context, all the way down to the lowest level of government. Roland Robertson and Kathleen E. White, 'What is Globalization?' in George Ritzer (ed.), *The Blackwell Companion to Globalization* (Basil Blackwell 2007) 54, 62.

[13] Policy diffusion between cities seems an understudied topic, but hopefully that is beginning to change. Katherine Levine Einstein, David M. Glick and Maxwell Palmer, 'City Learning: Evidence of Policy Information Diffusion from a Survey of U.S. Mayors' (2019) 72 (1) Political Research Quarterly 243–258.

marily on private and non-governmental actors.[14] The original strand of global governance literature came from scholars of international relations (IR), who established the basic but fundamental proposition that states are no longer the only relevant actor on the global stage; instead, a variety of non-state actors exert real influence and achieve tangible successes alongside nation-states.[15] These non-state global actors – multinational corporations, advocacy groups, professional associations and NGOs, among others – operate, according to these IR scholars, as 'global governors' or 'actors who exercise power across borders with some degree of legitimacy and continuity for purposes of affecting policy in an issue area'.[16] This expanded view of global governance was widened further by scholars who took a more nuanced and non-traditional view of global politics as an arena where actors, institutions, norms and identities all operate in symbiotic relationships to shape, constitute and re-constitute one another.[17]

Although the study of global governance expanded to include an even wider body of non-traditional actors in world politics, cities were still largely ignored or underappreciated in the earlier literature.[18] It was not until a new wave of scholars emerged, such as Michele Acuto, that the global governance literature widened its conceptual ambit to include municipalities. According to these scholars, cities represent one of the many 'spheres of authority' that define and shape modern IR.[19] These scholars are careful, however, to note the ongoing relevance of the state-based Westphalian system, which continues to define the overarching rules and framework that guide the political and legal world order.[20] Yet, the more recent scholarship on global governance confirms that this reality has morphed and stretched, at least in practice, in radical new ways that now allow for a broader array of actors, notably including cities, to have more direct input and influence on global governance. The traditional infrastructure of international politics now operates alongside – sometimes in collaboration, sometimes in contestation and sometimes in parallel with – novel forms of authority, sovereignty and trans-national agency.[21]

This broader and more inclusive approach toward global governance adopted by IR scholars in the latter part of the twentieth and early part of the twenty-first century is similar to the approach taken by legal pluralists and followers of the New Haven School of international legal theory, both of which adopt a similarly expansive and non-traditional view of international affairs. Legal pluralist Paul Berman, for example, offers a robust critique of the 'fictitious' belief that 'autonomous, territorially distinct spheres', such as nation-states, operate 'under the legal jurisdiction of only one regime at a time', and that only national governments are the creators and enforcers of international legal rules and norms.[22] Instead, he argues that

---

[14] For example, Slaughter's foundational book (n 3), while addressing the rising role of a variety of non-state actors in global politics, doesn't include cities among these new actors.

[15] ibid.

[16] ibid 1.

[17] Alexander Wendt, *Social Theory of International Politics* (Cambridge University Press 1999); Alexander Wendt, 'Anarchy is What States Make of It: the Social Construction of Power Politics' (1992) 46 (2) International Organization.

[18] Acuto (n 5) 21.

[19] ibid 22.

[20] ibid.

[21] ibid.

[22] Paul Schiff Berman, *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders* (Cambridge University Press 2012).

the reality is messier and more complex; 'multiple, converging, and divergent legal rules emanat[e] from different sources of law' and from 'different levels of authority, the local, national and international, and sometimes hybrids involving different combinations of these three'.[23]

Scholars of local government law have also, in their own ways, helped to broaden our understanding of global governance. Scholars Gerald E. Frug, David J. Barron, and Yishai Blank each identified, back in 2006, the various ways that localities were emerging as relevant actors on the global stage, and in so doing created a new field of 'international local government law'.[24]

The idea that the global and the local could be directly connected and significantly impact each other, without mediation by a national government, was unprecedented when this body of literature first emerged. Traditionally, most political and virtually all legal theories have focused primarily on two dyads: the global–state relationship, and the national–local one. To these two dyads Yishai Blank adds a third, the global–local relationship; he collectively refers to all three as the 'novel trinity'.[25] According to Blank, this new dyad has been forged largely because local governments have learned to use international law to their advantage, to 'leapfrog' over their state governments and to have a direct and autonomous connection with international organizations and agendas, a novel observation at the time.[26] Cities, according to Blank, now bear their own international rights, duties and powers; they are independent objects of international and transnational regulation; they act as enforcers of international norms and standards; and finally, they are members of increasingly powerful global networks. Frug and Barron similarly confirm the direct connection between the local and the global in their work. In their seminal article from 2006, 'International Local Government Law', they demonstrated how international law is decisively affecting, and in some cases defining, the relationship between cities and their national governments, as well as directly impacting certain local decisions, such as in the area of land use, in ways that both empower and constrain cities.[27]

Yet, this useful body of scholarship is mostly one-sided and uni-directional: it primarily focuses on the impact that international law and norms are having on cities, rather than the impact that cities are now having on the formation, implementation and enforcement of international law and transnational norms.[28] While discussing the many ways that international laws, regulations, norms and policies have influenced, and in some ways empowered, cities to stand up to their national governments and to advance their own agendas within their own jurisdictions, they give little attention to the fact that cities are now participating in the making and shaping of legal norms at the global level. Put another way, cities are participating at the front end of international law and norm formation, rather than only at the back end, at the implementation and enforcement phase, where they have always been active participants.

---

[23]   ibid 4.

[24]   Gerald E. Frug and David J. Barron, 'International Local Government Law' (2006) 38 The Urban Lawyer 1; Yishai Blank, 'The City and the World' (2006) 44 (3) Columbia Journal of Transnational Law 868; Yishai Blank, 'Localism in the New Global Legal Order' (2006) 47 (1) Harvard International Law Journal 263.

[25]   Blank, 'The City and the World' (n 24) 889.

[26]   ibid 879.

[27]   Frug and Barron (n 24) 22, 29.

[28]   This is largely true with the exception of international human rights law, which Frug, Barron and Blank each recognize as an area where cities are particularly active. But even then, they focus on cities' role in enforcing human rights norms, rather than their role in shaping or implementing those norms.

Moreover, cities are now harnessing the power of international city networks, such as C40, United Cities and Local Governments (UCLG) and the Global Parliament of Mayors, to operate beyond their own local and national borders in order to push for new norms and agendas at the international level as well.

B   City Networks and Global Agenda Setting

The international local government law and legal pluralism literatures offer useful starting points from which to further examine the influence that cities are having in global governance. Since the publication of the earlier strands of scholarship on global governance, the number and ambition of city networks has dramatically risen. When Blank wrote about the rise of 'global associations of localities', or international city networks, in 2006, he could list only nine examples,[29] and when Frug and Barron wrote their articles in the early 2000s, examples of the ways in which cities were acting as independent global actors were admittedly 'hard to pinpoint'.[30] Today, well over 300 such networks exist, a number that continues to rise, with an average of four new international city networks emerging every year.[31]

City networking is not a new phenomenon; it can be traced back to at least the early twentieth century, if not long before.[32] What is new and different about city networking today, however, is that many (though not all) networks now devote additional resources to international lobbying, or what is often referred to as 'city diplomacy', at the global level. Unlike the city networks of the past, which focused largely on city-to-city initiatives, such as sister cities, or informational gatherings to exchange best practices, many of the international city networks active today are not only engaging in joint projects and story swapping, but they are also attempting to access *and* influence the international policy-making process in unprecedented new ways.[33]

What is also new is the breadth of topics and issues covered by the existing city networks. A study conducted in 2018 by the authors of this chapter, which examined a representative sample of 100 international city networks, found that while 60% of networks focus on one issue or a small handful of related issues, such as the environment and climate change, the remaining 40% focus on a wide variety of topics.[34] Those networks that focus on specific topics or themes tend to situate themselves as global experts and, in some cases, lobbyists for

---

[29]   Blank, 'The City and the World' (n 24) 922–923.

[30]   ibid 917.

[31]   Benjamin Leffel and Michele Acuto, 'Economic Power Foundations of Cities in Global Governance' (2018) 32 Global Society, 281.

[32]   Michele Acuto and Steve Rayner, 'City Networks: Breaking Gridlocks or Forging (New) Lock-ins' (2016) 92 (5) International Affairs.

[33]   This phenomenon, variously referred to as 'municipal internationalism', 'transnational municipal networking', 'municipal foreign policy making' and, as previously mentioned, 'city diplomacy', is perhaps the primary feature that defines and distinguishes the international city networking of today; Aaron Fishbone, 'City Networks: Evaluating the Next Frontier of International Relations' (2017) 2 Urban and Regional Policy, German Marshall Fund of the US; Leffel and Acuto (n 32).

[34]   Chrystie Swiney and Sheila R. Foster, 'Empowering Cities: The Landscape of Global City Networking' (The Global Parliament of Mayors, Bristol, UK 2018). This was an internal report done for the GPM, a portion of which was published in their annual summit report, https://globalparliame ntofmayors.org/wp-content/uploads/2018/11/GPM-Summit-2018-report-.pdf, page 4, accessed 23 August 2020.

their particular cause, in addition to creating a platform for cities to exchange information and craft joint declarations. The more 'generalist' networks, however, tend to focus less on lobbying and more on the latter activities. While the most common issue embraced by international city networks is the climate, other networks focus on economic issues, security, counterterrorism, migration, education, culture and public health, among others.[35]

The number of networks and their expanded activities and substantive reach begs the question, however, of the extent of their influence in global governance. Here the evidence is quite mixed and evolving still. Structural reforms within international organizations have given certain networks a greater platform for expressing their opinions and shaping global agendas that impact cities. For example, the Global Taskforce on Local and Regional Governments ('the Global Taskforce') was created by the UN in 2013 as a forum where the perspectives of local and regional governments can be taken into account when discussing global policies.[36] The Global Taskforce is composed of thirty-seven city networks, though most of these are branches of the UCLG network, currently the largest international city network in the world with over 240,000 members, which together purport to represent 70% of the global population.[37] The Global Task Force lobbied for the inclusion of Sustainable Development Goal (SDG) 11 on sustainable cities and human settlements.[38] It also convenes the World Assembly of Local and Regional Governments, and it was instrumental in drafting the New Urban Agenda.[39] Though it remains to be seen whether this forum will indeed translate into actual policy outcomes, its very existence represents a significant symbolic step forward for cities in their efforts to pierce the traditionally states-only structures of international institutions.

Even when city networks do not have a seat at the table of international institutions, there is evidence that their collective voices are nevertheless reaching global policy makers. Consider the collective push by cities for influence over the drafting of the Global Compact for Migration (GCM) and the Global Compact on Refugees (GCR), both adopted by the UN General Assembly in 2018. Led by UCLG, together with the International Organization for Migration, the leaders of over 150 cities signed the 'Mechelen Declaration'[40] demanding a seat at the migration policy table before the declaration was drafted. Likewise, on the eve of the adoption of both Global Compacts, close to 200 mayors and city leaders adopted the Marrakech Mayoral Declaration, which called for the formal recognition of the role of local authorities in the implementation, follow-up and review of the compacts.[41] Recognizing the centrality of cities on the topic of migration, the UN High Commissioner on Refugees (UNHCR) enthusiastically endorsed the latter declaration in a speech highlighting the necessity of working with

---

[35]   ibid.

[36]   The Global Taskforce for Local and Regional Governments Website, 'About Us' https://www.global-taskforce.org/about-us accessed 23 August 2020.

[37]   UCLG, 'Who we Are' https://issuu.com/uclgcglu/docs/uclg_who_we_are, pages 2–3, accessed 23 August 2020.

[38]   Global Taskforce of Local and Regional Governments, 'Our Work' https://www.global-taskforce.org/our-work accessed 23 August 2020; Noora Arajärvi, 'Including Cities in the 2030 Agenda – A Review of The Post-2015 Process' in Aust and du Plessis (n 11) 17.

[39]   UN Habitat III, 'The New Urban Agenda' (23 December 2016) UN Doc A/RES/71/256 http://habitat3.org/the-new-urban-agenda accessed 23 August 2020.

[40]   The Mechelen Declaration is available at https://www.iom.int/sites/default/files/press_release/file/Mechelen-Declaration-final.pdf accessed 23 August 2020.

[41]   The declaration can be found at https://www.uclg.org/sites/default/files/marrakech_mayors_declaration.pdf accessed 23 August 2020.

city leaders to solve the global migration and refugee crisis.[42] It isn't any coincidence that the official drafts of the GCM and the GCR each refer to the term 'local' nearly forty times.

The formal exclusion of cities from the drafting of international policies and legal norms also does not mean that cities lack a substantive role on how these policies and norms are implemented at the local level. The UNHCR, as indicated above, has definitively embraced such a role as evidenced by the establishment of the Mayor's Migration Council, officially launched in December 2018 in Marrakech on the margins of the UN conference there. Similarly, a new institutional platform, the Mayor's Mechanism (MM), was created by the state-led Global Forum on Migration and Development in December 2018 as a way of providing a formal channel for input and collaboration between city and regional governments and nation-states on issues pertaining to migration and development. The creation of the MM was inspired by the UN General Assembly's recognition, in 2013, of rising city-led assertiveness on the topic of migration. Based on this recognition, the UN General Assembly created the Mayoral Forum on Human Mobility, Migration and Development ('the Forum') as 'an incubating space where local leaders can share practical and inventive solutions for governing migration and promoting inclusive urban economic growth', as well as to 'inform, and be informed by, national and international policy-making'.[43] The establishment of these two platforms is a major achievement for cities in international politics and makes real the promise of working with local authorities and networks of cities as referenced in the GCR and GCM.

Migration is not the only area where networks of city leaders have been able to situate themselves to push for specific policies, or policy implementation, at the international level in recent years. In some cases, city networks work in tandem with national governments and within the existing state-based international system to shape international agendas. In other cases, city networks largely work around or outside of this system to advance their own agendas. The most visible example of this is in the climate context. 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. While COP15 failed to achieve consensus among the participating nations, the mayoral-led side summit ended in a unanimously agreed upon declaration codifying their shared environmental goals. They worked together, and continue to work together, through transnational networks such as the Cities Climate Leadership Group (C40), an international city network of over ninety cities, to meet the goals of the key international climate agreements. Before COP21, which resulted in the Paris Agreement, states had already conducted twenty COPs. The collective action by cities was a significant factor, some have argued, in pushing nation-states to the historical agreement reached at COP21 in Paris.[44]

---

[42] Ariane Rummery, 'UNHCR Welcomes Global Mayors' Commitment to Refugees' (UNHCR: The UN Agency on Refugees, 2018) https://www.unhcr.org/news/latest/2018/12/5c0d06a34/unhcr -welcomes-global-mayors-commitment-refugees.html accessed 23 August 2020; see Chapter 19 by Barbara Oomen in this volume.

[43] Global Mayoral Forum, 'M4D Net' http://www.migration4development.org/en/events/global -mayoral-forum accessed September 2020.

[44] Ian Klaus, 'The Urban 20: A Contemporary Diplomatic History' *Diplomatic Courier* (2018) https://www.diplomaticourier.com/posts/the-urban-20-a-contemporary-diplomatic-history accessed 23 August 2020.

C   Global–Local, or Glocal, Governance

It would be a mistake to view the role and potential power of city networks, and the collective action of their leaders, as confined to influencing international policymakers and the development of international legal norms. As Benjamin Barber argued in making the case for a global parliament of mayors, cities can most effectively exercise their 'soft power' by acting collectively, from the bottom-up, to share and implement common policies and practices that 'directly affect more than half the world's population and indirectly serve the entire planet'.[45] His view was that mayors need not await the cooperation of international institutions, multinational corporations or dysfunctional nation-states. Cities are already engaged in informal governance, through the many city networks that already exist. They simply need to take the next step to amplify their collective voice and make cooperation truly global by empowering cities to 'act in lieu of the sometimes obstreperous (when not altogether missing) national forces that impede the urban quest to secure justice and security for their citizens'.[46]

Perhaps nowhere is the divergence between local and national policies, and the rising assertiveness of cities at the global level, starker than on the topics of migration and climate. As an escalating number of national governments throughout the world have become increasingly insular and xenophobic, an increasing number of cities, especially (but not only) the world's largest global cities, have opened their doors even wider to migrants and refugees in an attempt to buck these backward, and in many cases racist, trends. In many instances, these cities are enacting policies that stand in direct defiance of national policies, such as with 'sanctuary cities' in the US and 'human rights cities' throughout Europe.[47]

Similarly, city leaders and networks have been especially active on the topic of climate change-mitigation, often taking more aggressive policy stances than their national governments. As indicated above, city networks and city leaders have been active in lobbying on the sidelines of the annual (nation-state led and dominated) COP Climate Summits since at least 2009. This event marked what could be considered the decisive start of independent city-led international initiatives to move forward (and ahead) on issues involving climate change irrespective of their national governments' support. Since then, many participating cities, unlike nations, have backed their words with impactful action. Cities in the US and beyond, for example, were among the first to respond when the Trump Administration announced its intention to withdraw from the Paris Accords in June 2017.

Through their collective actions, declarations, and commitments cities around the world are creating their own quasi-binding legal norms and policies outside of the narrow strictures of international law. This is evidenced in the use of legal or quasi-legal agreements – compacts, declarations, action plans, covenants and so on – adopted by cities and (more often) their networks on a particular topic, such as migration or climate change. Though typically lacking in enforcement mechanisms, these documents look and act strikingly similar to international legal agreements signed by nation-states. They require the signature of an officially authorized individual (often a mayor or top city official), formal depositing with a specially designated

---

[45]   Barber (n 2) 337–339.
[46]   ibid 339.
[47]   Mark Noferi, 'Municipal IDs and State and Local Measures to Regularize the lives of the Unauthorized' (Center for Migration Studies) https://cmsny.org/municipal-ids-and-state-and-local -measures-to-regularize-the-lives-of-the-unauthorized/ accessed 23 August 2020.

agency or authority (typically an agency or representative of the agreement's sponsor), and some form of monitoring and reporting, albeit often in the form of self-monitoring and self-reporting. The only thing often missing is the application of sanctions in the event of a violation, but this is also typical of public international law, which in many instances is enforced through 'softer' measures, such as shaming and pressure campaigns, rather than typical 'hard' enforcement measures.

Needless to say, the number of commitments being signed and implemented by cities and their networks are indeed mounting, creating a new body of 'law' that is not quite international law, at least in the formal sense, but is not municipal or domestic law either. Instead, it's what some have awkwardly referred to as 'glocal', or more simply 'transnational', law, and it represents yet another way in which cities are complicating our traditional understandings of how cities, and their leaders, networks and officials, are involved in global governance.[48]

D   Bottom-up Global (or Glocal) Lawmaking

The international legal literature on bottom-up lawmaking is useful in conceptualizing cities' role in the making and shaping of transnational or global law, although like the bodies of scholarship discussed above, it has failed to fully account for the role of cities and their networks, instead tending to focus on private and lower level (but national) bureaucrats. Legal scholar Janet Levit has traced the ways in which international law is made from the 'bottom up', not by nations and their representatives, but instead by private practitioners and technocrats who, working together, have been able to transform their technical expertise into informal norms, which over time have hardened into something akin to, or in some cases equivalent to, formal law, typically domestic law.[49] Levit characterizes 'bottom-up lawmaking' as part of a larger evolving reality unfolding at the international level where the 'state no longer owns international lawmaking', which has now become 'an ongoing process engaging a number of transnational actors'.[50] Through all of her many examples, none of which include cities, Levit shows how rules rooted in on-the-ground practices can, over time, trickle from the bottom up and nest themselves within domestic, regional and in some cases international laws.

The literature on bottom-up lawmaking reveals that a common script is often followed when rules start from the ground and flow upward, rather than from the top down, as has been more commonly studied. The norm makers in her story, however, constitute relatively small, homogenous groups of actors, reminiscent of private clubs, that create highly technical rules, which have essentially evolved organically and become embedded over time in formal legal instruments based on the routine practices and customs of the affected practitioners.[51] The democratic deficit inherent in this bottom-up norm-to-law process is obvious, which Levit concedes.[52] But this criticism is potentially lessened if the norm makers are elected city officials.

---

[48]   Swiney (n 8).
[49]   Janet Koven Levit, 'A Bottom-up Approach to International Lawmaking: The Tale of Three Trade Finance Instruments' (2005) 30 Yale Journal of International Law 125.
[50]   ibid 130.
[51]   ibid 129.
[52]   ibid 131.

Levit working with Hari Osofsky, whose work focuses on law and geography, has attempted to do just that, to apply the theory of bottom-up lawmaking to cities and, more specifically, to their role in transnational environmental networks, a phenomenon they refer to as 'bottom up networking'.[53] Through their work, the role of cities is finally introduced into the discussion of how transnational law and norms are developed. Cities, in conjunction with a diverse community of transnational actors (private parties, NGOs and/or public (state, local and national) officials), 'coalesce around shared, on-the-ground experiences and perceived self-interests'. Public, private and nonprofit actors typically come together to form 'multiscalar networks', which engage in both 'scaling up and scaling down' processes.[54] According to Osofsky and Levit, '[c]ities are interacting with international standards and across international borders, but also localizing them simultaneously'.[55]

Legal scholar Kristine Kern adds further nuance to the concept of 'scaling', noting that 'upscaling' is a process seen in cities that can be characterized by expansion, diffusion and transformation.[56] In her attempt to carefully define this term, she articulates four different types of scaling: *horizontal upscaling*, which is based on voluntary actions and direct relations between leading cities; *vertical upscaling*, which is shaped by the interdependent relations between cities and higher levels of government; *hierarchical upscaling*, which leads to a harmonization of policies at the national and/or regional level and sets mandatory standards for all municipalities; and *embedded upscaling*, which combines horizontal, vertical and hierarchical upscaling and is linked to the concept of polycentric governance.[57] The concept of scaling, when added to the insights from the bottom-up lawmaking literature, is useful when thinking about how norms created by city networks are influencing and shaping the contents of transnational legal norms and policies.

The above mentioned bodies of scholarship, in one shape or form, agree that the result of all of these activities – bottom-up lawmaking, bottom-up networking and upscaling – is policy diffusion of (and sometimes convergence on) specific issues and strategies. Local policies and standards are diffusing not only to other cities (horizontal scaling) but they are also diffusing upward to penetrate the international policy-making circles, a phenomenon that is particularly apparent in the areas of climate and migration. Once diffused, these policies are, over time, becoming benchmarks for collective action among cities, particularly the large global cities, and can help to hold city leaders and their networks to account. This process of convergence is, as with cities themselves, facilitated by city networks, particularly the large and powerful networks, such as C40 and UCLG. In this way, the major cities and city networks act as norm entrepreneurs for the smaller, less powerful ones, whose behaviors and policies will often fall into line, resulting in convergence around specific methods and substantive goals.

---

[53] Hari Osofky and Janet Levit, 'The Scale of Networks?: Local Climate Change Coalitions' (2008) 8 Chicago Journal of International Law 409, 414.

[54] ibid 429, 431.

[55] ibid 431.

[56] Kristine Kern, 'Cities as Leaders in EU Multilevel Climate Governance: Embedded Upscaling of Local Experiments in Europe' (2018) 28 Journal of Environmental Politics 125.

[57] ibid 136–137.

II   CONCLUSION

Cities and their networks are now decisively established as influential global actors in the difficult task of governing the globe, and their views and opinions are incorporated into many multilateral (nation-state-led) and unilateral (city-led) agendas and policies. Yet, the question of how city collective action specifically translates into tangible policy and, in some cases, law at the global level, particularly given their formal absence from traditional conceptions of international law and relations, remains unanswered. Even if cities and their networks manage to collectively unite in ways that allow for a united voice at the international level, there still remains the most formidable of the many obstacles that tend to stymie their success: the current political world order. This world order continues to be centered, structurally and formally, around the idea that nation-states are the dominant, and in many cases the exclusive, player in global diplomacy. Unless and until a new international order is created, or major structural reforms are made, cities will forever remain second-class participants at the whim of their national counterparts.

While questions remain about whether our current international system, whether *de facto* or *de jure*, can genuinely incorporate the views of actors other than nations and the most powerful economic actors, instances of bottom-up city networking and lawmaking continue to mount. Perhaps, as Anne-Marie Slaughter and others have argued, a new world order has arrived, and the shell of the formal system that remains in place no longer has relevance.[58] The new *de facto* world order that has arisen, according to Slaughter, includes a multitude of influential actors who together are engaged in the hard work of international problem solving and policy making. As Barber argued, perhaps this is precisely what we are currently witnessing with respect to cities' rising influence, ambition and assertiveness in global politics, realities that are securing cities' status as essential actors in global governance. Migration and Climate, as two examples, are existential global problems that city leaders are attempting to show can only be solved if solutions are adopted globally but applied locally.

Evidence of the important role that city leaders play in this new world order is the continued proliferation of city networks. These networks, we have argued, are critical spaces for policy diffusion and convergence, empowering cities to collectively respond to cross-border challenges without waiting on their nation-states, with whom they are often in tension, or international institutions to act. Yet, new questions are being raised about the efficacy of city networking as the main vehicle of glocal problem solving. City networks, for instance, may simply reproduce and deepen the economic inequalities that define nation-states and international politics. C40, as one example, explicitly restricts its membership to only the world's most economically powerful global cities, a number that began with forty but has been expanded to include over ninety. One concern is that the work and activities of international city networks tend to be concentrated in the world's major metropolitan areas and capital cities around the globe, often leaving the smaller and medium-sized cities and towns without representation by those purporting to represent them.

Another issue is the over-abundance and fragmentation of city networks, which threaten to dilute their collective voice and influence at the global level. With so many city networks now

---

58   Anne-Marie Slaughter, 'Global Government Networks, Global Information Agencies, and Disaggregated Democracy' (2001) 24 Michigan Journal of International Law 1041.

active internationally, there are growing concerns about the emergence of collective action failures and dilemmas. Specifically, the proliferation of networks threatens to weaken the broader mission of solving transborder challenges that require the collective collaboration of all regions, nations and cities working together. Turf battles, issue monopolization and democratic deficits characterize many of the existing networks, and collaboration and cooperation, the things that city networks were explicitly designed to foster, can be elusive at times.

Future research is necessary to explore how cities will be able to overcome the many deficits that have hindered states from advancing a shared global vision and solving our global challenges, the very deficits that contributed to the rise of city networks in the first place.[59] Cities, like states, are not immune from the many challenges and pitfalls that inhere in the difficult and complex job of governance. Yet, if recent history is any guide, cities and their networks are successfully navigating this terrain and learning how to effectively bridge the local–global divide in ways that states have been either unable or unwilling to do.

FURTHER READING

Michele Acuto, *Global Cities, Governance and Diplomacy: The Urban Link* (Routledge 2013).

Michele Acuto and Steve Rayner, 'City Networks: Breaking Gridlocks or Forging (New) Lock-ins' (2916) 92 (5) International Affairs 1147.

Benjamin Barber, *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities* (Yale University Press 2013).

Yishai Blank, 'The City and the World' (2006) 44 (3) Columbia Journal of Transnational Law 875.

Gerald E. Frug and David J. Barron, 'International Local Government Law'(2006) 38 The Urban Lawyer 1.

Barbara Oomen and Moritz Baumgärtel, 'Frontier Cities: The Rise of Local Authorities as an Opportunity for International Human Rights Law' (2018) 29 (2) European Journal of International Law 607.

Ileana M. Porras, 'The City and International Law: In Pursuit of Sustainable Development' (2009) 36 Fordham Urban Law Journal 537.

Anne-Marie Slaughter, *A New World Order* (Princeton University Press 2004).

Chrystie Swiney, 'The Urbanization of International Law and International Relations: The Rising Soft Power of Cities in Global Governance' (2020) 41 Michigan Journal of International Law 227.

---

[59]   Barber (n 2).