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# THE URBANIZATION OF INTERNATIONAL LAW AND INTERNATIONAL RELATIONS: THE RISING SOFT POWER OF CITIES IN GLOBAL GOVERNANCE

Chrystie Swiney\*

## I. INTRODUCTION

In an era of increased partisan gridlock among nation-states, ongoing democratic deficits in the international policymaking process, plummeting levels of trust in national leaders, and the failure of federal governments to solve our most pressing global problems,<sup>1</sup> attention is shifting to a different set of actors: cities.<sup>2</sup> Cities are not only more attuned to the needs of their electorate, more trusted than their national counterparts, more adept at getting things done, and less partisan when it comes to working across aisles and oceans,<sup>3</sup> but they are also more ambitious in pushing forward bold, hu-

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1. See THOMAS HALE, DAVID HELD, & KEVIN YOUNG, *GRIDLOCK: WHY GLOBAL COOPERATION IS FAILING WHEN WE NEED IT MOST* (2013) (arguing that our tools for global policymaking, primarily state-to-state negotiations over treaties and international institutions, have broken down); Dan Koon-Hong Chan, *City Diplomacy and "Glocal" Governance: Revitalizing Cosmopolitan Democracy*, 29 *EURO. J. SOC. SCI. RES.* 134, 135 (2016) (discussing how international policymaking suffers from democratic deficits).

2. Many pundits, scholars, and even former diplomats are starting to make this argument. See, e.g., GERALD FRUG, RICHARD FORD, & DAVID BARRON, *LOCAL GOVERNMENT LAW: CASES AND MATERIALS* 278 (6th ed. 2010); Nina Hachigian, *Cities Will Determine the Future of Diplomacy*, *FOREIGN POL'Y* (Apr. 16, 2019), <https://foreignpolicy.com/2019/04/16/cities-will-determine-the-future-of-diplomacy>; Chrystie Swiney & Sheila Foster, *Cities are Rising in Influence and Power on the Global Stage*, *CITYLAB* (Apr. 15, 2019), <https://www.citylab.com/perspective/2019/04/city-leadership-international-policy-mayors-u20-uclg-c40/587089>; Robert Muggah et al., *Cities, Not Nation States, Will Determine Our Future Survival. Here's Why*, *WORLD ECON. F.* (June 2, 2017), <https://www.weforum.org/agenda/2017/06/as-nation-states-falter-cities-are-stepping-up>.

3. Richard Florida, *Are Local Politics as Polarized as National? Depends on the Issue*, *CITYLAB* (Apr. 24, 2019) <https://www.citylab.com/life/2019/04/polarization-cities->

manity-saving agendas. As national governments seem increasingly unable or unwilling to advance progressive policies at the international level, and as our shared global challenges grow more and more urgent—climate change, deepening inequality, the global migration crisis, shortages of affordable housing, infectious pandemics, democratic decay, and rising extremism—cities<sup>4</sup> are rising up and moving ahead with or without their national counterparts.<sup>5</sup> In so doing, cities are gaining influence and assertiveness not only at the national level, but within international politics as well, and this reality is decisively shifting our traditional understandings of both international law and global politics.<sup>6</sup>

Cities are entirely absent from the increasingly anachronistic international political and legal framework forged after World War II.<sup>7</sup> Consequently, they have been forced to work within a system that largely denies their independent existence, or, more precisely, views them as subordinate appendages of their nation-states. States,<sup>8</sup> not cities, are expected to represent their citizens and all sub-national entities at the international level: National governments, not local ones, send representatives to staff the governing bodies comprising the United Nations (“UN”) and other international organizations, and states, not cities, are tasked with drafting, codifying, and enforcing international treaties and agreements on behalf of their sub-national entities.<sup>9</sup> Formally and institutionally, cities have no voice, no offi-

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education-labor-public-opinion-taxes/587746 (discussing a recent study that found that, in the United States, trust in national government is around 17%, while trust in local institutions is over 70%).

4. In this article, I use the word “city” to mean “local governments,” and I use the two terms interchangeably. But cities are of course so much more than just their local governments. They are composed of people, civil society organizations, private corporations, schools, and government officials, among others.

5. Barbara Oomen & Moritz Baumgärtel, *Frontier Cities: The Rise of Local Authorities as an Opportunity for International Human Rights Law*, 29 *EURO. J. INT’L L.* 607, 608 (2018) (arguing that local actors increasingly claim and obtain a key role in the realization of international law).

6. This phenomenon (cities rising up to act as independent actors) is very much happening at the national level as well: Cities are rising up within national politics to assert their own positions and opinions, and they are finding ways to enact their own progressive policies even in the face of national opposition. But the focus of this paper will be on cities’ role in the international sphere only, specifically through the lens of international relations and international law. I hope to write about the rising role of cities at the national level in a future publication.

7. Cities are not at all absent or missing from national laws (indeed these laws typically specify what roles and rights they have), but they are entirely missing from formal public international law. (Private international law, in contrast, does take cities more seriously. This article, however, focuses only on public international law.)

8. Use of the word “state” in this article refers to nation-states; it does not refer to a federal state in a federated system, such as the United States, unless so designated (as by “U.S. state”).

9. The United Nations (“UN”) Charter, which was signed on June 26, 1945, outlines the basic rules that shape the current international political and legal framework. A cursory review of its nineteen chapters reveals how myopically focused this framework is on nation-

cial seat or platform—indeed, no meaningful existence—within the current international policymaking system.

Yet, despite the many institutional, legal, and political barriers that exist to prevent cities from entering the international political arena, they are nevertheless finding ways to do so, and with increasing success. More specifically, cities are discovering ways to act as autonomous, independent actors in their own right—separate and independent of their federal counterparts<sup>10</sup>—in their efforts to influence and shape international agendas. This article explores the variety of creative and resourceful strategies that they have honed to do so, largely over the past two decades. These include: (1) coalescing together to form large networks, which engage in city or “glocal” diplomacy;<sup>11</sup> (2) allying with well-connected and well-resourced international organizations;<sup>12</sup> (3) gaining inclusion in UN multilateral agendas;<sup>13</sup> (4) mirroring state-based coalitions and their high-profile events;<sup>14</sup> (5) har-

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states. Indeed, cities are not mentioned a single time, while the words “nation” and “state” appear over forty times. *See* Charter of the United Nations and Statute of the International Court of Justice art. 38(1), June 26, 1945, 59 Stat. 1055, T.S. No. 993 [hereinafter U.N. Charter and ICJ Statute].

10. Concurrently, some cities are working alongside their federal counterparts—through formal offices or collaborations created by the national government—to participate in policy at the international level. For example, in the United States, from 2010 to 2013 the Obama administration created a special representative for Global Intergovernmental Affairs, which was charged with building strategic peer-to-peer relationships between the U.S. Department of State, U.S. state and local officials, and their foreign counterparts. *See* Reta Jo Lewis, Staff Profile, THE GERMAN MARSHALL FUND OF THE UNITED STATES [THE GERMAN MARSHALL FUND], <http://www.gmfus.org/profiles/reta-jo-lewis-esq> (last visited Nov. 24, 2019). There is currently a bipartisan bill under consideration, the City and State Diplomacy Act (H.R. 3571, 116th Cong. (2019)), which would establish a permanent Office of Subnational Diplomacy within the Department of State to encourage state- and city-level international diplomacy. The bill remains under review and has not yet become law. *See* Reta Jo Lewis, *A New Act to Revitalize U.S. Diplomacy from the Ground Up*, THE GERMAN MARSHALL FUND (July 22, 2019), [www.gmfus.org/blog/2019/07/22/new-act-revitalize-us-diplomacy-ground](http://www.gmfus.org/blog/2019/07/22/new-act-revitalize-us-diplomacy-ground).

11. “Glocal” diplomacy, as used in this article and as further described and defined below, is the unmediated diplomatic action of local governments at the international level. The term was popularized by sociologist Roland Robertson in the 1990s to explain how global social processes are selectively redefined and adapted to suit local cultural exigencies. Margaret Rouse, *Glocalization Definition*, TECHTARGET, <https://searchcio.techtargget.com/definition/glocalization> (last visited Jan. 12, 2020).

12. Ileana M. Porras, *The City and International Law: In Pursuit of Sustainable Development*, 36 FORDHAM URB. L.J. 537, 552–63 (2009).

13. Examples include: The New Urban Agenda; the 2030 Agenda for Sustainable Development (see Goal 11 specifically); the Paris Climate Agreement; the Addis Ababa Action Agenda; the Sendai Framework for Disaster Risk Reduction; and the UN Conference on the Environment and Development. Many of these examples are discussed *infra* in Part III.C.

14. One example includes the U20, or the Urban 20, which seeks to coordinate joint policy positions between the mayors of the main cities of the G20 and those of other global urban centers in order to inform and enrich the discussions had by national leaders during their G20 Summits. It meets on the sidelines of G20 events. *See* UNITED CITIES AND LOCAL GOVERNMENTS [UCLG], *U20: 25 Cities Commit to Work with the G20 in Response to Major*

nessing the language of international law (especially international human rights and environmental law) to advance agendas at odds with their national counterparts;<sup>15</sup> and (6) adopting resolutions, declarations, and voluntarily self-policed commitments—what I refer to as *global law*—that look strikingly similar to state-made international law.<sup>16</sup> Using these six strategies, cities are piercing the states-only veil of international politics in ways arguably not seen in the post-Westphalian era.<sup>17</sup>

To be sure, cities are not the only “new” non-state actors to get involved in the state-centric world of international politics.<sup>18</sup> By jumping into the international political fray, cities are joining a chorus of other non-state actors, including civil society organizations, private corporations, regional coalitions, special interest groups, and a ream of others in what has become an increasingly diffuse international political arena.<sup>19</sup> However, unlike most of these other non-state actors, cities carry a unique status: They are still governmental.

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*Global Challenges*, <https://www.uclg.org/en/media/news/25-cities-commit-work-g20-response-major-global-challenges> (last visited Mar. 10, 2020).

15. See generally GLOBAL URBAN JUSTICE: THE RISE OF HUMAN RIGHTS CITIES 275 (Barbara Oomen, Martha Davis, & Michele Grigolo eds., 2016).

16. Each of these will be discussed below. I chose the term “global law” to serve as a juxtaposition to Gerald Frug and David Barron’s term *international local law*, which is further discussed and detailed in the sections below. See Gerald Frug & David Barron, *International Local Government Law*, 38 URB. LAW. 1, 59 (2006).

17. Before the Westphalian era, cities played a powerful role at the international level. Well-documented examples of politically autonomous cities include ancient Greek city-states, cities in ancient Mesopotamia, and cities in the Hanseatic League of Cities, which existed from the 14<sup>th</sup> to the 17<sup>th</sup> centuries. The Bible is also replete with examples of powerful cities in ancient and early CE times: Jericho, Ur, Babylon, Damascus, Jerusalem, etc. But from the Peace of Westphalia in 1648 onwards, the nation-state became the center of international politics, law and relations. See generally INTERNATIONAL POLITICS: CONCEPTS, THEORIES AND ISSUES (Rumki Basu ed., 2012); PAUL D’ANIERI, INTERNATIONAL POLITICS: POWER AND PURPOSE IN GLOBAL AFFAIRS (4th ed. 2016); KENNETH WALTZ, MAN, THE STATE, AND WAR: A THEORETICAL ANALYSIS (reprt. 2001) (1954).

18. I put “new” in quotes because there is a long history of non-state actors attempting to penetrate and shape the international legal and political sphere. For example, humanitarian activists and organizations, such as the Red Cross (which is 137 years old), have actively shaped international humanitarian law and the laws of war for hundreds of years. RED CROSS, *A Brief History of the Red Cross*, <https://www.redcross.org/content/dam/redcross/National/history-full-history.pdf> (last visited Dec. 20, 2019).

19. Many political scientists and legal scholars talk about, and research, the fragmented nature of global politics in the twenty-first century. Anne-Marie Slaughter was one of the first to make a persuasive and formidable argument about this. Though she did not specifically feature or focus on cities—she focused instead on transnational networks—she is nevertheless one of the leading scholars to have pointed out the diffusing nature of global power and politics. See generally Anne-Marie Slaughter, *Sovereignty and Power in a Networked World Order*, 40 STAN. J. INT’L L. 283, 284 (2004).

Moreover, at least for those city governments operating within one of the world's 115 electoral democracies,<sup>20</sup> they are representative, rather than issue-, interest-, or profit-driven.<sup>21</sup> Cities are where human populations are converging; over half of all people live in urban centers today, a number that will rise to two-thirds by 2050.<sup>22</sup> Roughly every two weeks, a population the size of Chicago joins the world's urban population, which already includes over 500 cities worldwide with populations of more than one million residents.<sup>23</sup> Thus, cities, unlike many of the other non-state actors involved in global politics, have a uniquely compelling argument regarding their legitimacy and right to be involved in shaping global agendas: They represent the interests of actual people—a *lot* of actual people, indeed most of the world's people—not just elite or special interest-driven missions, however noble those missions might be.<sup>24</sup> As legal scholars Barbara Oomen and Moritz Baumgärtel put it, cities represent a “transnational force beyond the top down world of international negotiations or the bottom-up advocacy of civil society groups.”<sup>25</sup> They are uniquely placed and have a uniquely strong claim on the legitimacy of their participation in the hyper-competitive world of global policy making and shaping.

This article examines the various ways in which cities are “leapfrogging” over their nation-states to act as autonomous actors in their own right at the international level, as well as the implications of this newfound development on both international law (“IL”) and international relations

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20. According to Freedom House's annual Freedom in the World Report, which measures the state of freedom in the world by quantifying the level of civil and political rights in every country, there are currently 115 electoral democracies in the world. See FREEDOM HOUSE, *List of Electoral Democracies (from the Freedom in the World 2020 Report)*, <https://freedomhouse.org/report/freedom-world> (last visited Apr. 11, 2020). This number varies from year to year and is slightly lower than the number of electoral democracies from previous years; for example, there were the 123 countries designated as electoral democracies in Freedom House's 2017 report, and 116 in its 2019 report. Even with the variance, it appears that the percentage of the world's governments that are electoral democracies is at or above 60%.

21. See BENJAMIN BARBER, *IF MAYORS RULED THE WORLD: DYSFUNCTIONAL NATIONS, RISING CITIES* 336–61 (2013).

22. U.N. Dep't of Econ. & Soc. Affairs, *World Urbanization Prospects: The 2018 Revision*, at 11, U.N. Doc. ST/ESA/SER.A/420 (2019). These numbers are shocking when considering that in 1950, only 30% of the world's population was urban. *Id.*

23. Ivo Daalder, *Why Cities Need Their Own Foreign Policies*, POLITICO (June 6, 2017).

24. HABITAT III: U.N. CONF. ON HOUSING AND SUSTAINABLE URB. DEV. [hereinafter HABITAT III], *Global Taskforce of Local and Regional Governments*, <http://habitat3.org/engagement/global-taskforce-of-local-and-regional-governments> (last visited Jan. 12, 2020). The Global Taskforce of Local and Regional Governments is very active at the UN level. It routinely argues that “[l]ocal governments have unique legitimacy, as a democratically elected sphere of the state, to bring together and balance all sectors and interests in their communities.” *Id.*

25. Oomen & Baumgärtel, *supra* note 5, at 610.

(“IR”).<sup>26</sup> To understand why cities are adopting particular tools and strategies, one must first comprehend their formal place within the existing international and political legal framework, as well as the factors driving cities to assert themselves at the international level in the first place. As such, Part II examines the virtual absence of cities from the existing international legal framework, which was put in place in the 1940s, but whose conceptual origins date back to the mid-seventeenth century. This section outlines the traditional black letter law pertaining to cities and their involvement in global politics and law and examines a niche body of scholarship known as “international local government law,” that until now has largely framed the scholarly discussion on cities’ relationship to IL. This literature, which was spearheaded by Professors Yishai Blank, David Barron, and Gerald Frug in 2006,<sup>27</sup> is both outdated and subject to (long-overdue) criticism.

Part III then examines the various tools and strategies being used by cities and their networks to penetrate the state-centric international system and to become influential and independent international actors in their own right. As previously stated, these strategies include: forming into networks, allying with international organizations, locating seats on UN decision-making bodies and inclusion in multilateral agendas, mirroring state-based coalitions and high-profile events, harnessing the language of international law, and adopting what I refer to as *global law* in order to hold each other to account. *Global law* is primarily composed of voluntary, self-enforced commitments that are drafted, implemented, and enforced by global, non-state actors—notably including cities—but that are arguably no less “real” than much of what qualifies as state-made international law.

Particular attention will be devoted to international city networks, arguably the most robust and influential of these strategies. The existing scholarship on city networks, much of which is spearheaded by IR scholar Michele Acuto but expounded on by others, will be reviewed and critiqued.<sup>28</sup> While this literature offers many insights and useful empirical data, it almost entirely ignores cities’ formal powerlessness under IL and, in general, lacks in legal analysis, which is crucial for fully understanding the role of cities at the international level.

Part IV of this paper advances a new way of conceptualizing the current status of cities within international politics and under IL by drawing on two concepts in particular: “soft power,” which comes from IR theory, and “soft law,” which is discussed primarily in international legal scholarship. By applying these two concepts to cities—and by building upon the insights gleaned from the relevant bodies of literature associated with cities and city

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26. See Yishai Blank, *The City and the World*, 44 COLUM. J. TRANSNAT’L L. 875, 886 (2006) (referring to cities “leapfrogging” over their federal governments to act of their own accord).

27. *Id.*; FRUG, FORD, & BARRON, *supra* note 2.

28. See generally Octavi de la Varga Mas, *Entangled: A Reflection on the Current State of the Ecosystem of Local Government Networks*, in RETHINKING THE ECOSYSTEM OF INTERNATIONAL CITY NETWORKS: CHALLENGES AND OPPORTUNITIES 85, 85 (2019).

diplomacy, I tentatively offer a new framework and a new vocabulary for understanding cities' radically changing role in global politics, which I refer to as "the Urbanization of Global Relations."

Finally, Part V discusses predicted trends in urban-global, or "glocal," politics and what they say about our changing international legal and political world order (what I would simply refer to as the "global" world order). The term "international" no longer seems appropriate to describe a sphere where the state is now only one of a multitude of influential actors. The article concludes with a call for help advancing and refining the research agenda proposed herein and with suggestions for areas ripe for further exploration at the intersection of IL, IR, and urban studies. Only by reaching across our ivory towers and siloed departments, cross-pollinating our ideas, and working collaboratively together can we hope to fully grasp the complex political landscape that now defines global governance.

## II. CITIES AND INTERNATIONAL LAW

### A. *Black Letter International Law on Cities*

Traditional black letter international law, which is designed to deal with state behavior with very few exceptions,<sup>29</sup> is effectively blind to the existence of cities. Indeed, reference to "cities" is entirely absent from the traditional sources of IL:<sup>30</sup> Cities cannot form treaties<sup>31</sup> or contribute to the formation of customary IL,<sup>32</sup> they cannot obtain legal standing in international courts or tribunals,<sup>33</sup> and they are not mentioned a single time anywhere in the UN Charter, a foundational international legal framework that mentions "state" and "nation" over forty times.<sup>34</sup>

29. The exceptions primarily include international human rights law and international criminal law, both of which deal with the actions or treatment of individuals. *See* Chan, *supra* note 1, at 135.

30. *See* U.N. Charter and ICJ Statute, *supra* note 9, art. 38(1) (defining traditional sources of international law as treaties, custom, general principles of law, the decisions of lower courts, and scholarly writings).

31. *See* Vienna Convention on the Law of Treaties art. 2, May 23, 1969, 1155 U.N.T.S. 331, 8 I.L.M. 679 (1969) (defining a treaty as an "international agreement concluded between States").

32. *See generally* Daniel Bodansky, *The Concept of Customary International Law*, 16 MICH. J. INT'L L. 667, 670 (1995) (stating that customary international law is determined by examining state practice and *opinio juris*).

33. Though cities are often party to domestic lawsuits and though they may have recourse in international matters through private international law, the mandates of the largest international public law tribunals give standing only to states. *See, e.g.*, U.N. Charter and ICJ Statute, *supra* note 9, art. 34(1) ("Only states may be parties in cases before the court."); Rome Statute of the Int'l Crim. Ct., 17 July 1998, 2187 U.N.T.S. 90, arts. 11–13 (referring only to jurisdiction over State Parties).

34. *See* U.N. Charter and ICJ Statute, *supra* note 9. Note that the Preamble to the UN Charter does mention that the representative governments drafting the Charter met in the

Under IL, cities entirely lack legal personality, which means they do not have rights, duties, or recognition under the law.<sup>35</sup> Moreover, given that cities are not subjects of IL, they cannot be held liable for international legal violations,<sup>36</sup> nor can they be full, independent members of state-based international organizations, including the UN (or any of its primary organs), whose exclusive membership includes only “peace loving states.”<sup>37</sup>

The Vienna Convention on the Law of Treaties, the key international instrument governing the creation and enforcement of international treaties (the primary source of IL), explicitly defines treaties as international agreements formed between states.<sup>38</sup> The Convention makes no mention whatsoever of any other jurisdiction bearing this critical law-making authority; it applies to states (and organizations composed of states) alone.<sup>39</sup> Likewise, a leading IL textbook spans nearly 1700 pages of detailed text, yet there is not a single section or sub-section on cities or local governments,<sup>40</sup> an omission also reflected in the syllabi for IL courses found in a non-exhaustive, but extensive, online search.<sup>41</sup> This myopic fixation on states is built into the core

“City” of San Francisco. This is not a substantive inclusion of the word “city,” so I did not count it. *Id.* pmb1.

35. RICHARD PUGH ET AL., INTERNATIONAL LAW: CASES AND MATERIALS, 248 (4th ed. 2001); Blank, *The City and the World*, *supra* note 26, at 892.

36. See RESTATEMENT (THIRD) FOREIGN RELATIONS LAW OF THE UNITED STATES § 207(b) (AM. LAW INST. 1987) (“A state is responsible for any violation of its obligations under international law resulting from action or inaction by . . . (b) the government or authorities of any political subdivision of the state.”); G.A. Res 56/83, ¶ 4(1) Responsibility of States for Internationally Wrongful Acts, (Jan. 28, 2002), (“The conduct of any State organ shall be considered an act of that State international law . . . whatever its character as an organ of the central government or of a territorial unit of the State.”).

37. U.N. Charter and ICJ Statute, *supra* note 8, art. 4(1); see also UNITED NATIONS, *About UN Membership*, <http://www.un.org/en/sections/member-states/about-un-membership/index.html> (last visited Apr. 22, 2020) (describing how states can be admitted to membership); UNITED NATIONS, *About Permanent Observers*, <https://www.un.org/en/sections/member-states/about-permanent-observers/index.html> (last visited Apr. 22, 2020) (noting that both “non-member states” such as the Holy See and Palestine, and regional and international civil society organizations can serve as observers at the UN General Assembly and before one or more specialized UN agency); UNITED NATIONS, *Permanent Observers: Intergovernmental and Other Organizations*, <https://www.un.org/en/sections/member-states/intergovernmental-and-other-organizations/index.html> (listing organizations invited to attend UN General Assembly meetings).

38. Vienna Convention on the Law of Treaties, *supra* note 31, art. 2(1)(a).

39. *Id.* art. 1 (“The present Convention applies to treaties between States.”); see also *id.* art. 7 (affirming that representatives of states belonging to international organizations can also conclude treaties). This is an application of the *expressio unius est exclusio alterius* canon. By including organizations of states, convention participants showed they considered (or had the opportunity to consider) other viable non-state actors and rejected them.

40. PUGH ET AL., *supra* note 35. Note that while there is a lengthy section on “municipal law,” “municipal” in the international law context refers to domestic, national-level law, not local or city-level law. *Id.*

41. Needless to say, there are hundreds, if not thousands, of international law courses nation-wide and globally, each of which is accompanied by a syllabus. I reviewed roughly

vocabulary associated with the international political and legal world order—the United Nations (the successor to the League of Nations), international law, international organizations, international relations, international diplomacy—making it difficult to even talk about global politics without employing the word “nation.”

The foundational principle of IL, which can be traced back over 300 years, is built on the long-standing idea that nation-states are the highest and exclusive authority, the Leviathan, over their territories.<sup>42</sup> With rare exception, IL treats states as the makers and shapers of its content and as the gatekeepers of implementation and enforcement.<sup>43</sup> As political scientist James Rosenau and others have argued, the state centrism of IR and IL is a “conceptual jail” that prevents us from noticing the rise of other non-state actors in international affairs<sup>44</sup> and the blurring of the historical lines between the local and the global, the domestic and the foreign.<sup>45</sup>

Nation-states are understandably protective of their pinnacle position in the international legal and political pecking order. While cities can and do violate international law, when they do, the cities’ states are held responsible for their violations, not the cities themselves. By passing legislation that codifies international legal norms into domestic law, states can hold their cities directly responsible for violations domestically, but the connection between IL and cities is never direct. At least formally, this connection is always mediated by the state.

### B. *Revisiting International Local Government Law*

Scholars of local government law began noticing a direct connection, or what they thought was a direct connection, between the law of local governance and IL in the earlier part of this century. In particular, a series of articles published in 2006 by three scholars of local government law began detailing the evolving relationship between these two previously unconnected fields.<sup>46</sup>

Blank broke new ground when he argued that cities had become “objects of global, international, and transnational regulation,” something that

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fifty syllabi that I located through a simple online search. This is admittedly an anecdotal approach, but it is nevertheless reflective, in my opinion, of the lack of focus on cities in international law courses.

42. See THOMAS HOBBS, *LEVIATHAN: OR THE MATTER, FORME AND POWER OF A COMMONWEALTH, ECCLESIASTICAL AND CIVIL* (1886).

43. Implementation and enforcement tasks are arguably shifting to allow for other actors to be involved. See generally Oomen & Baumgärtel, *supra* note 5, at 626.

44. See Chan, *supra* note 1, at 138 (citing JAMES ROSENAU, *ALONG THE DOMESTIC-FOREIGN FRONTIER: EXPLORING GOVERNANCE IN A TURBULENT WORLD* 15–17 (1997)).

45. See JAMES ROSENAU, *DISTANT PROXIMITIES: DYNAMICS BEYOND GLOBALIZATION* 410 (2003) (“What is domestic is also foreign and what is foreign is also domestic.”).

46. See generally Blank, *The City and the World*, *supra* note 26; Frug & Barron, *supra* note 16.

had, until then, received “virtually no discussion.”<sup>47</sup> Though conceding that cities still fall “short of obtaining the status of full international legal entities,” Blank nevertheless argued that cities have become relevant to the making, shaping, and enforcing of international law.<sup>48</sup> Because of this, he asserted, cities are moving ever closer to being actual “bearers” and “objects” of international rights, duties, and powers.<sup>49</sup> Blank made two other bold claims. First, that cities have become enforcers of international norms and standards, often referred to as “soft law” (though Blank never used this term).<sup>50</sup> Second, that in so doing, cities have gained influence as political actors, in their own right, on the world political stage (what I argue is “soft power,” though again, Blank never used this term).<sup>51</sup> These developments are part of a new “emerging global legal order,” Blank claimed; like the new political world order, he argued that it has become more fragmented and dispersed and involves a multitude of new non-state actors that now participate alongside states in global governance.<sup>52</sup> According to Blank, cities are “the most prominent” among these new actors and in the “reconfiguration of the global order.”<sup>53</sup> The nation-state no longer stands as the unitary and impenetrable billiard ball it once was.<sup>54</sup> It is now accompanied, and at times challenged, by a multitude of other actors, notably including increasingly vocal, organized, and ambitious local governments.<sup>55</sup>

Traditionally, most political—and virtually all legal—theories have focused primarily on two dyadic relationships: the global-national relationship and the national-local one. To these two dyads, Professor Blank usefully added a third: the global-local relationship.<sup>56</sup> According to Blank, this new dyad has been forged largely because local governments have learned to use IL to their advantage, to “leapfrog” over their state governments and to have a direct and autonomous connection with international organizations and agendas.<sup>57</sup> Blank’s insight that there could be a direct connection between the local and the global, a connection unmediated by the state, was novel at

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47. Blank, *The City and the World*, *supra* note 26, at 899–90.

48. Yishai Blank, *Localism in the New Global Legal Order*, 47 HARV. INT’L L.J. 263, 266 (2006).

49. *Id.* at 266.

50. *Id.* at 268.

51. *Id.* at 281 (claiming that “[l]ocalities are no longer mere bureaucratic subdivisions of states” . . . but instead are “increasingly influential” in “the global legal order”).

52. See Blank, *The City and the World*, *supra* note 26, at 924.

53. *Id.* at 886.

54. ARNOLD WOLFERS, DISCORD AND COLLABORATION: ESSAYS ON INTERNATIONAL POLITICS 19–20 (1962).

55. Blank, *The City and the World*, *supra* note 26, at 930.

56. *Id.* at 889. Collectively, he refers to these three dyads as the “novel trinity.” *Id.*

57. *Id.* According to Blank, “local governments can now use international law in their struggle against their states and other localities, and the world faces two distinct entities—the state and localities—and it no longer addresses them as if they were the same legal creature.” *Id.*

the time he wrote, and it significantly advanced our understanding of cities' evolving status in international affairs.

Yet, while Blank's claims were bold, provocative, and insightful, they were short on empirical support and—even in 2006—were quickly becoming outdated. For example, he cited three domestic court cases as support for his claim that local governments are becoming objects of international law: *Odlocba, Metalclad Corp. v. The United Mexican States*, and *Crosby v. National Foreign Trade Council*.<sup>58</sup> Yet, two of the three cases end with the court reaching the opposite conclusion, and the third case, on a fuller reading, is only very weakly supportive of his claim: The Slovenian Supreme Court in *Odlocba* held that the Slovenian Constitution prohibits local governance units from exceeding the size necessary for the normal functioning of local government. (A loss for the local government.) In *Metalclad*, an ICSID tribunal upheld a decision by a NAFTA tribunal that awarded Metalclad, a U.S. corporation, compensation for the losses it suffered due to the refusal of the local Mexican authorities to let it operate a hazardous waste facility within the jurisdiction. (Another loss for the local government.) And in *Crosby*, the U.S. Supreme Court held that a Massachusetts government procurement act which prohibited state entities from doing business with companies that had business ties with Burma was invalid, as this transgressed into the federal government's sphere. (Yet another loss for a subnational government, this time the state.) Indeed, in all three cases the federal, not the local, government was ultimately held responsible for the alleged international violation, because the cities' obligations under IL were considered derivative of the state's, just as expected under classic black letter IL.<sup>59</sup>

Additionally, Blank repeatedly distilled cities' IL obligations from non-binding policy agendas, which cannot and do not constitute binding international law. For example, some of the environmental agreements that are cited, such as Agenda 21 (which "recommends" the strengthening of environmental mechanisms at "the lowest appropriate level"), are not treaties or

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58. Blank, *The City and the World*, *supra* note 26, 920–24 n.153 (citing *Odlocba* st. U-I-90/94, Uradni list Republike Slovenije, st. 29/94, <http://www.sigov.si/us/eus-decs.html> (Slovn.)), 155 (citing *Metalclad Corp. v. The United Mexican States*, ICSID Case No. ARB(AF)/97/1 (2001)), and 163 (citing *Crosby v. National Foreign Trade Council*, 530 U.S. 363 (2000)).

59. For example, Blank claimed that local governments are "initiating and forming" transnational law through agreements with "localities across borders," but only, as he explicitly acknowledged, "when authorized by their states." Blank, *The City and the World*, *supra* note 26, at 906 (emphasis added). In another example, Blank concluded that the Slovenian Supreme Court's opinion in *Odlocba* restricting localities from exceeding the size necessary for their normal functioning based on "the European concept of local government" demonstrates "the fact that global governance projects increasingly develop a comprehensive view of localities, which they previously lacked." *Id.* at 920. But, in reality, this is an example of a branch of the national government (the judiciary) imposing its will on localities, not of international law.

international legal instruments at all, but only policy agendas.<sup>60</sup> Likewise, while Blank conceded that the voluntary private agreements that localities make with the World Bank in exchange for loans and financial assistance “do not count as international law,” he still used them as examples of the growing relevance of cities to international law.<sup>61</sup> Moreover, some of his examples simply don’t hold up to scrutiny, such as his reference to a trans-border agreement signed between Israeli and Palestinian localities over a shared resource (a polluted water basin), which he upholds as an example of localities engaging in bottom up international law-making.<sup>62</sup> The relationship between Israel and the Palestinian territories has a unique status under international law, making examples of their agreements over territorial resources unrepresentative and incomparable to other jurisdictions. What Blank upheld as an example of international law being made from the ground-up by two localities was, in reality, an agreement forged between an occupier nation and a dependent territory. Finally, in certain instances Blank overstated his claim, such as when he asserted that the creation of UN-Habitat, which focuses on empowering cities, brought cities “closer to obtaining the status of international legal subjects.”<sup>63</sup> The creation of UN-Habitat, while perhaps emboldening of the claim that cities are now important global actors, has in no way brought cities closer to becoming subjects of international law, at least in the traditional sense.<sup>64</sup>

In sum, though Blank made bold and revolutionary claims—claims that, if true, would require an overhaul of the existing state-based international legal framework—the empirical record does not bear them out.<sup>65</sup> The structure of Blank’s article reflects this: As Blank’s article unfolds, he ratchets down his assertions, first claiming that cities are close to becoming subjects of IL,<sup>66</sup> a groundless claim at odds with IL, then that cities are increasingly bound by “international duties, standards and norms,”<sup>67</sup> before finally con-

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60. *Id.* at 906.

61. *Id.* at 915–17.

62. *Id.* at 906.

63. *Id.* at 908. Blank also stated that the World Charter on Local Government could conceivably, if adopted, “become *jus cogens*.” *Id.* at 906. The term *jus cogens* (which refers to peremptory norms, or norms that are not derogable by states), however, applies only to individual principles or rights, not to entire charters or treaties. INTERNATIONAL LAW: CASES AND MATERIALS (Lori F. Damrosch et al. eds., 4th ed. 2001), at 45. Application of the term *jus cogens* is highly contentious and rare. See Erika de Wet, *The Prohibition of Torture as an International Norm of Jus Cogens and Its Implications for National and Customary Law*, 15 EURO. J. INT’L L. 97 (2004) (debating the application of the term to the prohibition against torture, an almost universally recognized human right).

64. While it is true that UN-Habitat focuses on empowering cities and other “human settlements” to act more independently, that does not, on its face, say anything about the legal status of cities within international law.

65. This will be further highlighted in the sections below.

66. Blank, *The City and the World*, *supra* note 26, at 929.

67. *Id.* at 903.

cluding only that they are only “exposed” to “international norms, obligations and tribunals.”<sup>68</sup>

Gerald Frug and David Barron’s seminal article, published in the same year, makes similarly bold claims, provides similarly informative insights—and submits similarly weak evidence.<sup>69</sup> The authors looked to three broad categories of evidence to support their argument that IL is now decisively defining the relationship between cities and their national governments.<sup>70</sup> First, they examined cities’ rise to prominence internationally, as evidenced through the formation of city networks,<sup>71</sup> the “municipal foreign policy movement,”<sup>72</sup> and the push for a World Charter of Local Self-Government.<sup>73</sup> Second, they looked at “international interventions into city decision-making,” discussing both UN-Habitat’s Global Campaign on Urban Governance and cities’ potential role in monitoring and enforcing international human rights law.<sup>74</sup> Third, and most prominently, they examined “international controls on city land use powers,” as exemplified in a series of international arbitral decisions that impacted or involved cities.<sup>75</sup>

Turning to the authors’ first category of evidence: While their empirical evidence powerfully highlights the emerging relationship between the global and the local, it does not further their argument—at times explicit and at other times implicit—that cities are now shapers and makers of IL. The authors are right to categorize the rise and spread of city networks as a transnational or international trend (though I prefer the word ‘global’ to international, as further described below), but not to claim that this trend has altered established international law. This phenomenon could more accurately be characterized as part of the new, more “disaggregated” international political arena and “networked” world order, where power is diffuse and coalitions of actors, both governmental and non-governmental, collectively and on their own, work to effectuate global change.<sup>76</sup> In other words, the patterns and examples cited by Frug and Barron are perhaps better classified as *political* trends, pertaining to the array of actors now active at the international level, rather than international *legal* developments that have altered the traditional nature of international law in any meaningful way. While the nature of power is, indeed, changing and diffusing globally, international law has failed to keep up; indeed, its sources, processes, institu-

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68. *Id.* at 905.

69. *See* Frug & Barron, *supra* note 16.

70. *Id.* at 22.

71. *Id.* at 23–27.

72. *Id.* at 28.

73. *Id.* at 29. This Charter never went beyond draft form. *See* UN Ctr. for Human Settlements & World Ass’n of Cities and Local Auth. Coordination [WACLAC], *Towards a World Charter of Local Self-Government: Joint Consultation Document* (May 1998), <http://www.gdrc.org/u-gov/charter.html>.

74. Frug & Barron, *supra* note 16, at 30–35.

75. *Id.* at 36–52.

76. Anne Marie Slaughter, A NEW WORLD ORDER 131 (2004).

tions, and key actors remain largely the same. Scholars like Frug, Barron, and Blank seem to be confusing and conflating changes in international political patterns and arrangements with changes in the foundational legal order that continues to prevail.

Similarly, Frug and Barron's discussion of the "municipal foreign policy movement," while illuminating in its own right, does not pertain to international law.<sup>77</sup> Their examples focus mostly on rebellious cities that publicly oppose their states' foreign policies. Yet the case law they cite, such as *Crosby v. National Foreign Trade*, supports the conclusion that states remain in firm control over the affairs, both foreign and domestic, of their sub-national governments.<sup>78</sup> Finally, their enthusiasm over the World Charter of Local Self-Government, which would have elevated cities to legal subjects under IL if adopted, seems, in retrospect, misplaced.<sup>79</sup> This proposal has gone nowhere and seems, nearly fifteen years later, to largely be abandoned.<sup>80</sup>

Frug and Barron then turned to evidence of "good urban governance and international development," focusing heavily on the UN-Habitat Campaign on Urban Governance. They asserted that the "concept paper" for this campaign<sup>81</sup> established "good urban governance" as an "international legal obligation."<sup>82</sup> This is, at best, a misleading conflation of a variety of legal and non-legal norms. As a later UN Human Settlement Program report noted, many of the norms endorsed as core to good urban governance in the concept paper—sustainability, subsidiarity, efficiency, safety—do not have

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77. Frug & Barron, *supra* note 16, at 27–29 (describing the international municipal movement as the engagement of local authorities at the international level on issues of international importance, autonomous of their national counterparts).

78. *Supra* note 58, at 372–74. As briefly discussed in regard to Blank's reliance on *Crosby*, the U.S. Supreme Court actually held that the Massachusetts sanctions on Burma were implicitly preempted because they would undermine the "intended purpose and 'natural effect'" of a conflicting federal sanctions statute. *Id.* at 373. In fact, Frug and Barron admit that this case suggests it is "likely" that cities will similarly be unable to engage in "these kinds of initiatives." Frug & Barron, *supra* note 16, at 28.

79. *Id.* at 29. The World Charter of Local Self-Government was modeled on the European Charter of Local Self-Government, which was adopted in 1993. While it took root at the European regional level, it went beyond the draft phase and never took root at the international level. Though Frug and Barron conceded that the World Charter of Local Self-Government was still "just an idea," they nevertheless offered it as "an important indicator of the current state of thinking about international local government law because it contains language that would revise local government law around the world." *Id.*

80. This Charter is largely no longer talked about among diplomats, international city networks, or scholars of city diplomacy.

81. UN-Habitat, *The Global Campaign on Urban Governance*, U.N. Doc. HS/650/02E (Concept Paper: 2d ed., May 2002) [hereinafter *Global Campaign on Urban Governance Concept Paper*].

82. Frug & Barron, *supra* note 16, at 31.

any existence in human rights law,” and the term “urban governance” itself “does not appear in [any] legally binding texts.”<sup>83</sup>

Turning to their third and most robust category of evidence, the authors confidently asserted that through “international controls on city land use powers,” cities’ international influence leaves the world of “progressive realization”<sup>84</sup> and, presumably, enters the world of actualized realization. As proof, they cited to a series of international arbitral decisions over international trade agreements as “transforming the traditional domestic legal relationship between cities and higher levels of government.”<sup>85</sup> But, yet again, two of the four cases the authors cited in support of their argument—*Metaclad v. United Mexican States*<sup>86</sup> and *TECMED*<sup>87</sup>—can actually be cited to endorse the opposite conclusion: that states are responsible for the international legal violations of their sub-national governments.<sup>88</sup> Despite that, Frug and Barron concluded that the holdings of *Metalclad* and *TECMED* are both “striking” and “important” to the development of local government law.<sup>89</sup> The two other cases discussed, *Republic of Chile v. MTD Equity*<sup>90</sup> and *Mondev International Ltd. v. United States*,<sup>91</sup> come to similar conclusions: Cities are demoted in relevance and immunized from legal liability, while states are elevated in importance and relevance and are ultimately held responsible for the actions of their renegade municipalities. In all four cases, cities’ ability to operate autonomously from national government control is constrained by an international trade agreement.<sup>92</sup>

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83. UN Human Settlement Program, *International Legal Instruments Addressing Good Governance* (Sept. 2002), at 5, [https://mirror.unhabitat.org/downloads/docs/2107\\_72061\\_Intl%20legal%20instruments%20good%20gov%20publication.pdf](https://mirror.unhabitat.org/downloads/docs/2107_72061_Intl%20legal%20instruments%20good%20gov%20publication.pdf). Notice that norms and law are not equivalent—either in the domestic context or in the international legal context. 11 JEFFRY FRIEDEN, DAVID LAKE, & KENNETH SHULTZ, *WORLD POLITICS: INTERESTS, INTERACTIONS, INSTITUTIONS* (2d ed. 2012).

84. Frug & Barron, *supra* note 16, at 36.

85. *Id.*

86. *Id.* at 40–44 (discussing *Metalclad Corp v. United Mexican States*, *supra* note 58, which failed to prevent the city of Guadalupe from shutting down the private corporation’s landfill operations but resulted in a multi-million dollar award in favor of the private investor and against Mexico—while admitting that important aspects of this case were later overturned).

87. *Id.* at 45 n.210 (citing *TECMED v. United Mexican States*, 43 I.L.M. 133 (2004)). Frug and Barron note that the city of Hermosillo successfully refused to allow a private investor an opportunity to operate a waste treatment facility following widespread public opposition. But, like in *Metaclad*, the private investor successfully won its international legal suit against the state of Mexico, not against the city.

88. See *Metalclad Corporation v. The United Mexican States*, ICSID Case No. ARB (AF)/97/1, Submission of the Government of the U.S., ¶¶ 3–5 (July 28, 1999), <https://www.italaw.com/cases/671>.

89. Frug & Barron, *supra* note 16, at 41, 47.

90. *Republic of Chile v. MTD Equity*, 44 I.L.M. 91 (2005).

91. *Mondev International Ltd. v. United States*, 42 I.L.M. 85 (2003).

92. Frug & Barron, *supra* note 16, at 51 (“All four of the cases . . . discussed demonstrate how arbitration decisions made under international trade agreements have the potential

Frug and Barron's analysis that cities are now shaping IL simply does not suffice to refute state supremacy, a tenant of black letter IL. They conceded that international trade law "often prompt[s] states to exert strict regulatory control over their local governments" and gives them "new reasons to police their cities."<sup>93</sup> Moreover, international trade agreements, Frug and Barron admitted, typically do not address cities specifically, "do not make cities directly liable," are formed between nation-states,<sup>94</sup> and focus narrowly "on the rights of investors and the obligations of the national government."<sup>95</sup> They even conceded in their conclusion that "[a]ny impact on city power or central/local relations is likely either to be overlooked or treated as irrelevant."<sup>96</sup> If anything, their legal analysis further reinforces the standard view that cities are irrelevant and powerless under IL, including under international trade agreements.

Where Frug, Barron, and Blank's conclusions are useful, and exceedingly so, is in their confirmation that the local and global are now connected and impacting each other in a variety of consequential new ways. They each persuasively argue that IL is influencing cities directly and that cities are, in certain instances, influencing IL. This latter argument, while less their focus and more my own, is particularly apparent with respect to their discussions of international human rights.

In that area, their conclusions reinforce more recent scholarship on cities' role as monitors and enforcers of human rights law<sup>97</sup> and on the ways in which cities are becoming empowered to "leapfrog" over and above their states to further their own progressive agendas. In particular, a review of the three authors' discussions of cities' involvement with human rights law reveals that cities are most successful in advancing human rights *norms* when engaged in shaming, advocacy campaigns, and other *soft power* tactics, or when they incorporate international human rights into their own urban policies and local ordinances, which transform international law over which cities have less or no agency into locally enforceable domestic law.<sup>98</sup>

These observations were recently confirmed by the research of international human rights scholars Barbara Oomen and Moritz Baumgärtel, who found that local actors increasingly claim and perform key roles in the reali-

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of limiting city power over land use by formulating rules of international local government law.").

93. *Id.* at 39.

94. *Id.* at 38. International trade agreements are solely between states. International investment treaties, though formed between states, can be considered open-ended contracts between states and private actors. Frug and Barron seem mostly focused on investment disputes under international trade agreements. *Id.* at 51.

95. *Id.* at 52.

96. *Id.*

97. See Oomen & Baumgärtel, *supra* note 5.

98. *Id.* at 268; Frug & Barron, *supra* note 16, at 33; Oomen & Baumgärtel, *supra* note 5, at 615–16 (discussing how certain cities have codified international treaties, such as the Convention Against All Forms of Discrimination Against Women, into local law).

zation of IL.<sup>99</sup> Blank seemed right on when he declared, back in 2006, that “[l]ocalities have become autonomous enforcers of international *norms*,” specifically avoiding the term “*law*.”<sup>100</sup> Cities are now helping to implement and enforce IL, and cities are being affected by international legal norms. Where the arguments advanced by Blank, Barron, and Frug fall short, however, is with respect to the claim that cities are directly shaping and making IL and that their actions are decisively starting to impact the system of international governance rather than the other way round. A closer examination reveals that they typically cite international *norms* and *standards* rather than international *law* itself; and they often overlook that when these norms are challenged in court, cities often fail to advance their cause.

The truth is, cities remain disconnected from black letter IL except through the intermediation of states, and no amount of creative lawyering or interpretive gymnastics can change that fact, at least so long as the current international legal framework remains in place. Until then, we need new verbiage and a new prism through which to make sense of the changing role of cities in international affairs. Such a framework will be offered in Part IV, but first we turn to the myriad ways in which cities *are* effectively piercing and influencing the state-centric realm of global politics.

### III. CITIES AND INTERNATIONAL RELATIONS

Cities are strengthening their collective voice in international politics and leapfrogging over their national governments to engage at the international level. To do so, they are using six primary strategies (previewed in the introduction to this article), some of which overlap and compound each other. Cities are (1) forming into international networks and coalitions; (2) allying with international organizations; (3) gaining seats on United Nations decision-making bodies and inclusion in multilateral agendas; (4) mirroring state-based coalitions and hosting their own state-like “international summits;” (5) utilizing the language of IL to advance their own agendas; and (6) adopting non-binding resolutions and agreements and holding each other to account. Using these six strategies, cities—especially the world’s largest and most economically prosperous mega-cities<sup>101</sup> and global cities<sup>102</sup>—have

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99. Oomen & Baumgärtel, *supra* note 5, at 621.

100. Blank, *The City and the World*, *supra* note 26, at 924.

101. Mega-cities are cities that have populations of over 10 million residents. U.N. Department of Economic and Social Affairs, *Data Booklet: The World’s Cities in 2018* (2018), [https://www.un.org/en/events/citiesday/assets/pdf/the\\_worlds\\_cities\\_in\\_2018\\_data\\_booklet.pdf](https://www.un.org/en/events/citiesday/assets/pdf/the_worlds_cities_in_2018_data_booklet.pdf).

102. Unlike for “mega-city,” there is no single agreed-upon definition of “global city.” However, most definitions emphasize the importance of economic clout; a global city must play a significant role in the global economy. Key examples include New York, London, Paris, Tokyo, Hong Kong. Saskia Sassen, a Professor of Sociology at the University of Chicago, is considered to be among the first scholars to define and conceptualize the term “global city.” Saskia Sassen, *The Global City: Introducing a Concept*, 11 BROWN J. WORLD AFF. 2 (Winter/Spring 2005). Professor Sassen defined global cities as “the terrain where a multiplicity of

achieved a level of participation and influence in international affairs arguably not seen since before the modern post-Westphalian era.<sup>103</sup>

Each of these six strategies is deserving of a paper-length analysis on its own. For the purposes of this paper, however, each will only be briefly described and illustrated through concrete empirical examples.

#### A. *Forming into Networks*

Even without formal recognition within IL, cities are charging ahead and upward to gain autonomy at the global level.<sup>104</sup> The primary way in which cities are doing this is by embracing the power of numbers and forming into coalitions, called “city networks.”<sup>105</sup> Cities have discovered that their voices are amplified and their influence enlarged when they act in formal association with other cities, including cities from both within and beyond their own national borders.<sup>106</sup> Though not a new phenomenon—the rise of city networks can be traced back to at least the early twentieth century, if not long before<sup>107</sup>—these networks, particularly international city networks,<sup>108</sup> have substantially proliferated in recent decades.<sup>109</sup> With well over two hundred international city networks active today, “city diplomacy is no rare occurrence.”<sup>110</sup> Indeed, it is now a “widespread phenomenon” that is “expanding” and changing the face of international affairs.<sup>111</sup>

What is new and different about city networks, when examining their objectives throughout the twentieth century to the present, is that many

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globalization processes assume concrete, localized forms.” *Id.* at 40. Other definitions vary. Compare Aaron M. Renn, *What Is a Global City?*, NEW GEOGRAPHY (Dec. 2012), <http://www.newgeography.com/content/003292-what-is-a-global-city> (defining a global city as “a significant production point of specialized financial and producer services that make the globalized economy run”), with Victor Kiprop, *What Is a Global City?*, WORLDATLAS (Oct. 5, 2017), <https://www.worldatlas.com/articles/what-is-a-global-city.html> (defining a global city as a “city that plays a significant role in the global economic system”).

103. See generally THE POWER OF CITIES IN INTERNATIONAL RELATIONS (Simon Curtis ed., 2014).

104. They are also doing this at the national level, but this article focuses on the global sphere.

105. City networks are “institutionalized governance structures facilitating city-to-city and city-to-other actors cooperation.” Michele Acuto, Mika Morissette, & Agis Tsouros, *City Diplomacy: Towards More Strategic Networking? Learning with WHO Health Cities 2017*, 8 GLOBAL POLICY 14, 15 (2017).

106. Michele Acuto & Steve Rayner, *City Networks: Breaking Gridlocks or Forging (New) Lock-ins*, 92 INT’L AFF. 1147, 1159–60 (2016).

107. *Id.* at 1155.

108. International city networks are coalitions of three or more cities from at least three different countries. These can be contrasted with national city networks, such as the U.S. Conference of Mayors, that include only cities from the same country. See UNITED STATES CONFERENCE OF MAYORS, <https://www.usmayors.org> (last visited Dec. 20, 2019).

109. Acuto & Rayner, *supra* note 106, at 1151.

110. Acuto, Morissette, & Tsouros, *supra* note 105, at 16.

111. *Id.*

(though not all) are now devoting additional resources and energy to international lobbying, or city diplomacy, at the global level.<sup>112</sup> Unlike the city networks of earlier times, which focused largely on city-to-city “twinning” initiatives (such as Sister Cities) or gatherings to discuss best practices, many of the international city networks active today are not only engaging in joint projects and best-practice swapping, but they are also attempting to access *and* influence the international policymaking process in new and unprecedented ways.<sup>113</sup> This transformation of city diplomacy is described variously as “municipal internationalism,” “transnational municipal networking,” and “municipal foreign policy making.”<sup>114</sup>

City networks that participate are said to be in the “International Municipal Movement.”<sup>115</sup> These include the C40 Climate Leadership Group (“C40”),<sup>116</sup> United Cities and Local Governments (“UCLG”),<sup>117</sup> Cities Alliance,<sup>118</sup> EUROCITIES,<sup>119</sup> and ICLEI<sup>120</sup> to name just a few. These networks have had varying levels of success but, in a few cases, certain large-scale networks have acquired legitimate seats at tables that were previously

112. Michele Acuto, *City Diplomacy*, in THE SAGE HANDBOOK OF DIPLOMACY 510, 517 (2016).

113. Aaron Fishbone, *City Networks: Evaluating the Next Frontier of International Relations, Urban and Regional Policy* (The German Marshall Fund of the U.S.: Urban and Regional Policy, No. 2, 2017); see Benjamin Leffel & Michele Acuto, *Economic Power Foundations of Cities in Global Governance*, 32 GLOBAL SOCIETY 281 (2018).

114. Fishbone, *supra* note 113, at 5; Leffel & Acuto, *supra* 113, at 281–82.

115. Kate Baird, *A New International Municipalist Movement Is on the Rise—From Small Victories to Global Alternatives*, OPEN DEMOCRACY (June 7, 2017), <https://www.opendemocracy.net/en/can-europe-make-it/new-international-municipalist-movement-is-on-rise-from-small-vic>.

116. C40 CITIES, *About*, <https://www.c40.org> (last visited Jan. 13, 2020). C40 is a network of the world’s megacities committed to addressing climate change; it began with 40 cities and now has 94. *Id.*

117. UCLG, *Who We Are*, <https://www.uclg.org> (last visited Jan. 13, 2020). UCLG is an umbrella organization for cities, local and regional governments, and municipal associations throughout the world defending their interests internationally and promoting democratic local self-government. UCLG was founded in 1913 and is the largest of all the city networks, with over 240,000 city members in over 140 countries. *Id.*

118. CITIES ALLIANCE, *About*, <https://www.citiesalliance.org> (last visited Jan. 13, 2020). Cities Alliance is a city network that promotes long-term programmatic approaches that support national and local governments to develop appropriate policy frameworks, strengthen local skills and capacity, undertake strategic city planning, and facilitate investment.” *Id.*

119. EUROCITIES, [www.eurocities.eu](http://www.eurocities.eu) (last visited Jan. 13, 2020). EUROCITIES is a network of large cities in Europe, established in 1986 to further economic, political and social development in its member cities. Today, EUROCITIES includes local governments of over 140 of Europe’s major cities from 39 countries, which between them comprise 130 million people. *Id.*

120. LOCAL GOVERNMENTS FOR SUSTAINABILITY [ICLEI], *About Us*, <https://iclei.org> (last visited Jan. 13, 2020). ICLEI “is a global network of more than 1,750 local and regional governments committed to sustainable urban development.” *Id.*

states-only.<sup>121</sup> For example, UCLG, the behemoth of all the city networks, permanently holds ten of the twenty seats on the UN Advisory Committee on Local Authorities (“UNACLA”) and serves as its president.<sup>122</sup> By establishing a formalized position within the UN, even if only on topics pertaining specifically to cities, UCLG has been able to shape various multilateral agendas, notably including the Habitat III process and the Sustainable Development Goals (“SDGs”).<sup>123</sup> According to one scholar who has closely studied the rise of city networks, Michele Acuto, “cities are not only critical contexts for an urbanizing 21<sup>st</sup> century,” but, through their networks, they are proving to be “effective actors, taking part in the dynamics of global governance.”<sup>124</sup>

The power of international city networks lies in the power of numbers: Voices are louder and actions more visible when more actors combine forces. According to a declaration issued by the International Coalition of Inclusive and Sustainable Cities, a network of cities with over 500 members that advocates for inclusive urban development:

[W]orking collectively as a network has added value and impact because city-to-city collaboration serves as a platform to build a common voice in global forums, which reinforces a unified stand for sustainable urban development.<sup>125</sup>

Networks of networks are also arising, with city networks joining forces to advance certain causes or goals, or to simply further amplify their voices. UCLG, C40, and ICLEI, which are all members of the Global Taskforce on Local and Regional Governments, often conduct campaigns and initiatives together, such as their campaign in April 2016 to get the Intergovernmental Panel on Climate Change to include “Cities and Climate Change” as a plank

121. Interview with Brendan Shane, Regional Director for North American, C40 (Oct. 10, 2018), (stating that the C40 has gained a “legitimate seat at the international policy-making table.”).

122. UN-HABITAT, *UN Advisory Committee on Local Authorities [UNACLA]*, <https://www.global-taskforce.org/united-nations-advisory-committee-local-authorities> (last visited Apr. 11, 2020). UNACLA was created in 2000 with the goal of strengthening the dialogue between the UN system and local authorities. *Id.*

123. See UCLG, *You Can’t Miss UCLG at the Habitat III Conference in Quito* (Sept. 30, 2016), <https://www.uclg.org/en/media/news/you-cant-miss-uclg-habitat-iii-conference-quito>. Through city networks’ involvement in this process, along with the support of others from civil society, UCLG was able to get one of the seventeen Sustainable Development Goals (“SDGs”), SDG 11, devoted to cities; SDG 11 is focused on building “sustainable cities and communities.” UNITED NATIONS DEVELOPMENT PROGRAMME, *Goal 11: Sustainable Cities and Communities*, <https://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-11-sustainable-cities-and-communities.html> (last visited Jan. 13, 2020).

124. Michele Acuto, *Engaging with Global Urban Governance*, in 7 *DOING GLOBAL URBAN RESEARCH* 96, 106 (John Harrison & Michael Holyer eds., 2018).

125. U.N. Educational, Scientific, and Cultural Organization [UNESCO], ICCAR Global Steering Committee Declaration of Nancy, at 2 (Dec. 10, 2018), [https://en.unesco.org/sites/default/files/declaration\\_nancy\\_2018.pdf](https://en.unesco.org/sites/default/files/declaration_nancy_2018.pdf).

of its work program.<sup>126</sup> C40, which began with forty of the world's largest and wealthiest cities but now includes ninety-six cities representing a quarter of the global economy, has been particularly successful at accomplishing its agenda, likely due in part to its ample resources and celebrity endorsement.<sup>127</sup> Created in 2005, C40 is now focused, first and foremost, on “delivering on the most ambitious goals of the Paris [Climate] Agreement at the local level”—by ensuring that its members commit to meeting (or exceeding) the obligations contained in the Paris Agreement irrespective of whether their national counterparts have made this commitment.<sup>128</sup> To advance its efforts, C40 has gone beyond mere knowledge-sharing, becoming a world-renowned international lobbyist and actively working to shape global policy discussions on climate change. Through its lobbying work, C40 has been instrumental in connecting its member cities with global policy-makers and forums by, for example, arranging for high-profile city-led events to be held alongside high-profile state-led events, as further described below.<sup>129</sup> In short, large-scale city networks like C40 not only serve as a connector between and among cities but also as a connector between the local and the global.<sup>130</sup>

### B. *Allying with International Organizations*

Cities' increased participation and influence at the international level has been facilitated by a close and supportive relationship with certain key international organizations. For over a decade, the UN Center for Human Settlements (“UN-Habitat”), the EU, the Organization for Economic Cooperation and Development, the International Monetary Fund, the World Health Organization (“WHO”), and the World Bank—among other international, transnational, and regional organizations—have promoted the importance and centrality of cities to their development goals.<sup>131</sup> Certain re-

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126. E.g., GLOBAL TASKFORCE OF LOCAL AND REGIONAL GOVERNMENTS, *C40, ICLEI, and UCLG Support Proposed IPCC Special Report on Cities and Climate Change* (Mar. 30, 2016), <https://www.global-taskforce.org/c40-iclei-and-uclg-support-proposed-ipcc-special-report-cities-and-climate-change>.

127. See C40 CITIES, *About*, *supra* note 116. C40 is financially backed, in part, by Bloomberg Philanthropies, and former mayor Michael Bloomberg has been very involved and active in his support for this network; he continues to serve as the president of the board. See C40 CITIES, *Board of Directors*, [https://www.c40.org/board\\_of\\_directors](https://www.c40.org/board_of_directors) (last visited Jan. 13, 2019).

128. *Id.*

129. See *infra*, Part III.D.

130. Chan, *supra* note 1, at 151.

131. For example, the World Bank devotes a portion of its vast portfolio to “urban development,” which itself is carved up into distinct thematic areas, including “sustainable cities and communities” and “inclusive cities.” For each of these themes, the World Bank has projects and teams in place to support them. See WORLD BANK, *Urban Development*, <https://www.worldbank.org/en/topic/urbandevelopment> (last visited Jan. 13, 2020). The World Bank, together with the International Monetary Fund and others, hosts an annual “Urbanization and Poverty Reduction” research conference. See WORLD BANK, *5th Urbanization*

gional intergovernmental organizations, such as the Council of Europe, have gone even further to advocate for the city-empowering concepts of “decentralization,” “subsidiarity,” and enhanced local autonomy in their official policy pronouncements and press releases.<sup>132</sup> Various scholars have noted that cities’ alliances with powerful international organizations have been instrumental in propelling them onto the world stage by giving them both a voice and a formal platform, in addition to recognition, in the historically states-only halls of global governance.<sup>133</sup> There is a growing tendency for cities, particularly large global cities, and international organizations to recognize that they have a “convergence of interests,” or a “common agenda.”<sup>134</sup>

Just as cities are finding it “harder, if not impossible . . . to accomplish [their] governance, economic and wellbeing goals without considering international action,”<sup>135</sup> international organizations have simultaneously recognized that cities are the “privileged loc[i]” for achieving their own sustainable development goals.<sup>136</sup> Frug and Barron first recognized this

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*and Poverty Reduction Research Conference* (Sept. 7, 2018), <https://www.worldbank.org/en/events/2018/05/02/5th-urbanization-and-poverty-reduction-research-conference>. UN-Habitat is focused on human settlements and sustainable urban development. See UN-HABITAT, *About Us*, <https://unhabitat.org/about-us> (last visited Apr. 22, 2020). The Organization for Economic Cooperation and Development [OECD], which works closely with UN-Habitat, is an intergovernmental organization focused on sustainable development. One of its areas of focus includes “urban development,” and it hosts the “OECD Roundtable of Mayors and Ministers” in order for local and national leaders to engage in policy dialogue on urban issues. See OECD, *OECD Work on Cities*, <http://www.oecd.org/cfe/regional-policy/urbandedevelopment.htm> (last visited Jan. 13, 2020).

132. See, e.g., COUNCIL OF EUROPE, *10 Years (2007–2017) of Intercultural Cities: Making Diversity Work for Cities*, Press Release, Ref. DC 173 (2017); COUNCIL OF EUROPE, *Paris Joins Council of Europe Intercultural Cities Network*, Press Release, Ref. DC 055 (2016); COUNCIL OF EUROPE, *Rotterdam: Summit of Mayors for the “Alliance of European cities against violent extremism”*, Press Release, Ref. CG-CP034 (2016); COUNCIL OF EUROPE, *Making Cities Resilient*, Chamber of Local Authorities, CPL 22(2) (Mar. 2, 2012), <https://rm.coe.int/090000168071a65d>; see also Blank, *Localism in the New Global Legal Order*, *supra* note 48, at 267. The European Charter of Local Self Government was adopted by the Council of Europe and opened for signature in 1985; all 47 members of the Council have adopted this charter. COUNCIL OF EUROPE, *A Charter for Local Democracy*, <https://www.coe.int/en/web/congress/european-charter-of-local-self-government> (last visited Jan. 13, 2019).

133. See, e.g., Porras, *supra* note 12; Blank, *Localism in the New Global Legal Order*, *supra* note 48; Frug & Barron, *supra* note 16; Acuto, *supra* note 124, at 106.

134. Porras, *supra* note 12, at 555 (“When cities turned to international organizations, they thus found a receptive audience and a ready embrace. . . . [T]he city was considered to offer the greatest potential for democratic empowerment, accountability, flexibility, [and] responsiveness to major stakeholders (including international organizations, public and private investors) and local knowledge. . . . The result was that international organizations, responding to cities’ demands, have adopted the city as an ideal partner to realize their development goals.”); see Blank, *The City and the World*, *supra* note 26, at 879–80.

135. Acuto et al., *‘City Diplomacy’ and Twinning: Lessons from the UK, China and Globally* 24 (UK Gov’t Office for Science: Future of Cities, Working Paper, 2016).

136. Porras, *supra* note 12, at 576.

connection well over a decade ago, and it forms a core part of their research agenda on international local government law, as previously discussed. Their recognition of the connection between cities and international organizations inspired a broader “refocus on cities as the objects of international norms,” a topic that has been extended and deepened by a variety of other scholars, including Barbara Oomen, Martha David, and Moritz Baumgärtel, and researchers affiliated with the Asser Institute’s project on global cities and international law, including Miha Marcenko, Janne Nijman, and Helmut Aust.<sup>137</sup>

Cities and their networks now regularly partner with international organizations. The UCLG alone has an endless list of partnerships, including with the European Commission, Agence Française de Développement, the International Labour Organization, the Organization for Economic Cooperation and Development, the World Bank, the UN Development Program, the International Monetary Fund, and the UN Educational, Scientific and Cultural Organization (“UNESCO”).<sup>138</sup> These alliances not only help city networks to acquire the necessary resources and tools to pursue their local and global agendas, but they provide access to the international policymaking world and give the networks a more formal and identifiable platform than they would otherwise have on their own. Linking up with an international organization, especially one that is already active in international policy debates, can give cities and their networks access to those debates and, therefore, an opportunity to influence them.

For example, the UCLG linked up with the International Organization for Migration (“IOM”), the leading inter-governmental organization in the field of migration, in November 2017 to draft and then issue the Mechelen Declaration, a statement calling for a greater role and voice for city governments in the adoption of a Global Compact on Migration.<sup>139</sup> The impri-

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137. E.g., Oomen & Baumgärtel, *supra* note 5; GLOBAL URBAN JUSTICE: THE RISE OF HUMAN RIGHTS CITIES, *supra* note 15. Researchers Aust and Nijman at the Asser Institute are currently working on compiling a co-edited *Handbook on International Law and Cities* to be published by Edward Edgar Publishing. I am co-authoring a chapter for this Handbook with Professor Sheila Foster of Georgetown law; it is entitled “The Urbanization of International Legal Relations: Cities Rising Soft Power and Soft Law in the Global Context.”

138. UCLG, *International Organisations*, <https://www.uclg.org/en/partners/international-organisations> (last visited Jan. 13, 2020).

139. Global Conference on Cities and Migration, *Mechelen Declaration on Cities and Migration* [hereinafter *Mechelen Declaration*] (Nov. 17, 2017), [https://www.iom.int/sites/default/files/press\\_release/file/Mechelen-Declaration-final.pdf](https://www.iom.int/sites/default/files/press_release/file/Mechelen-Declaration-final.pdf); Ana Maria Lebeda, *Cities Adopt Declaration for Global Compact on Migration*, SDG KNOWLEDGE HUB: A PROJECT BY IISD (Dec. 5, 2017), <http://sdg.iisd.org/news/cities-adopt-declaration-for-global-compact-on-migration> (“The [Mechelen] Declaration builds on the SDGs, the New Urban Agenda and the New York Declaration on Migrants and Refugees. In an annex, it presents the mayors and leaders’ actionable commitments, means of implementation, and a monitoring and evaluation mechanism, which serves as the basis for the first follow-up and review of the migration-related commitments included in the New Urban Agenda. The document recognizes the importance of a community-driven approach to local urban gov-

matur of the IOM legitimated and amplified the call for cities' involvement in global policy discussions on migration and led to the creation of a "Mayor's Mechanism," which now provides a formal channel for local governments to be involved in these global discussions.<sup>140</sup>

As previously mentioned, this relationship is reciprocal: International organizations also ally with cities to advance their own goals. For example, the WHO's Healthy Cities Program has worked closely with localities for more than three decades to ensure that issues of health are included in the agendas of city governments.<sup>141</sup> The alliance between cities and the WHO led, in November 2016, to the Shanghai Declaration on Promoting Health in the 2030 Agenda for Sustainable Development, which formally recognized cities as "critical settings for health" and, therefore, essential contributors to international policy discussions on health.<sup>142</sup> Similarly, the World Bank, which views urban development as key to resolving issues of global poverty, routinely emphasizes the idea that urbanization is one of the key global trends of the twenty-first century.<sup>143</sup>

As with migration and health, linking cities to the problem of global poverty has helped to position cities as legitimate participants in international policy discussions on poverty, as evidenced by their inclusion in Sustainable Development Goal 11.<sup>144</sup> The World Economic Forum recently acknowledged that cities are transforming how foreign policy is conducted. Cities, it asserts, are now engaging in "paradiplomacy," or parallel diplomacy separate and autonomous from their national leaders.<sup>145</sup> They are opening up their own international affairs offices abroad in order to represent their own local interests and foster international collaborations, participating in "international multilateral arrangements," ensuring that their international roles are codified in their country's foundational documents, and adopting

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enance that benefits communities of origin, transit, and destination as well as migrants, refugees, returnees and internally displaced people (IDPs).")

140. The creation of the Mayor's Mechanism is discussed in more depth, *infra*, Part III.C.

141. WORLD HEALTH ORGANIZATION [WHO], *Types of Healthy Settings*, [https://www.who.int/healthy\\_settings/types/cities/en](https://www.who.int/healthy_settings/types/cities/en) (last visited Jan. 13, 2020).

142. Ninth Global Conference on Health Promotion, *Shanghai Declaration on Promoting Health in the 2030 Agenda for Sustainable Development* (Nov. 24, 2016), <https://www.who.int/healthpromotion/conferences/9gchp/shanghai-declaration.pdf>.

143. See WORLD BANK, *Urban Development*, <https://www.worldbank.org/en/topic/urbandevelopment> (last visited Jan. 13, 2020).

144. See UNITED NATIONS, *Sustainable Dev. Goal 11*, <https://sustainabledevelopment.un.org/sdg11> (last visited Jan. 13, 2020). SDG 11 is focused on "sustainable cities and communities." *Id.*

145. Rodrigo Tavares, *Forget the Nation-State: Cities Will Transform the Way We Conduct Foreign Affairs*, WORLD ECON. F. (Oct. 4, 2016), <https://www.weforum.org/agenda/2016/10/forget-the-nation-state-cities-will-transform-the-way-we-conduct-foreign-affairs>.

their own foreign policy “actions plans,” “white papers,” and “government plans.”<sup>146</sup>

Public international organizations are not the only ones allying with cities. Alliances are also common between cities and private international organizations. While not as directly linked to the international policymaking world, these private institutions have helped to further the idea that cities are essential to solving our global challenges. The Rockefeller Foundation, a private international charitable organization, has worked with city governments since 2013 through its 100 Resilient Cities program, which focuses on preparing cities to be ready for the physical, social, and economic challenges of the twenty-first century.<sup>147</sup> The Foundation’s idea that cities need to be resilient and ready for disasters trickled into the UN’s agenda, through the “making cities resilient” campaign launched by the UN Office for Disaster Risk Reduction and the Sendai Framework.<sup>148</sup> While not as directly giving cities a global voice or a platform to further their own policy agendas, the 100 Resilient Cities program exemplifies how a privately funded initiative focused on empowering cities caught the attention of the United Nations and helped to promote the idea that cities are central to global policies on resiliency.

Cities and city networks are finding ways to effectively leverage their alliances with international organizations, both governmental and private, in order to further promote the critical roles that cities play—or should play—in twenty-first century global governance.

### C. *Gaining Recognition in Multilateral Agendas*

Cities and city networks are increasingly recognized as important global actors, with critical perspectives, valuable experience, and useful insights to contribute to international policymaking discussions. In October of 2016, for example, the vast majority of the world’s states—170 to be exact—agreed to adopt a “New Urban Agenda,” an international, UN-led long-term mission that acknowledges that cities will grow massively over the next thirty years and become central to future global development.<sup>149</sup> This agenda

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146. *Id.*

147. 100 RESILIENT CITIES, *About Us*, <http://www.100resilientcities.org/about-us> (last visited Jan. 13, 2020).

148. UN OFFICE FOR DISASTER RISK REDUCTION, *Making Cities Resilient*, <https://www.unisdr.org/we/campaign/cities> (last visited Jan. 13, 2020).

149. G.A. Res. 71/256, *The New Urban Agenda* (Dec. 23, 2016), <http://habitat3.org/the-new-urban-agenda>. The New Urban Agenda was issued in Quito, Ecuador at the end of 2016. It explicitly calls for greater cooperation between national and local authorities to address the challenges of forced migration. The Agenda stresses the need to invest in “synergies between international migration and development at the global, regional, national, subnational and local levels by ensuring safe, orderly and regular migration through planned and well-managed migration policies, and . . . supporting local authorities in establishing frameworks that enable the positive contribution of migrants to cities and strengthened urban-rural linkages.” Robert

was adopted at the Habitat III conference in Ecuador, an event that “catalyzed the world’s attention to cities as the places where a global agenda for sustainable development can start.”<sup>150</sup> During this conference, cities and their networks were “firmly on the front stage, notably C40 Cities and UCLG, with visible performances, commitments and interventions” throughout.<sup>151</sup> According to city network scholar Michele Acuto, “[t]his tells us that cities are not only critical contexts for an urbanizing 21<sup>st</sup> century, they can be effective actors, taking part in the dynamics of global governance.”<sup>152</sup>

This same recognition is codified in a variety of other international instruments and agendas as well, including the UN Sustainable Development Goals (goal eleven, specifically), which form the core of the 2030 Agenda for Sustainable Development; the Paris Climate Agreement; the Addis Ababa Action Agenda; the Sendai Framework for Disaster Risk Reduction; and the UN Conference on the Environment and Development, all of which, to one extent or another, center around the idea that sustainable urbanization is key to successful development. Moreover, an entire UN agency, UN-Habitat, was created in 1978 to focus on urban themes, initiatives, and knowledge; it claims to have “a unique and a universally acknowledged expertise in all things urban” due to its decades of experience working with cities.<sup>153</sup> UN-Habitat was arguably the first major UN initiative to catalyze the world’s attention to cities as the places where a global agenda for sustainable development can start.<sup>154</sup> Today it is focused on enacting the New Urban Agenda (“NUA”), an agenda focused on the idea that a sustainable future starts in cities and on the “transformative power of urbanization,” as well as implementing SDG eleven.<sup>155</sup> The NUA underlines the linkages between urbanization and job creation, livelihood opportunities, and improved quality of life, which should be included in every urban renewal policy and strategy.<sup>156</sup>

The importance of cities to global governance and to solving our global challenges is not a new idea. Before the “New Urban Agenda” of 2016, the

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Muggah & Adriana Abdenur, *Refugees and the City: The Twenty-First-Century Front Line 7* (World Refugee Council, Working Paper No. 2, 2018).

150. UN-HABITAT, *UNACLA*, *supra* note 122.

151. *Id.*

152. *Id.*

153. UN-HABITAT, *UN-Habitat at a Glance*, <https://unhabitat.org> (last visited Jan. 13, 2020).

154. UN-HABITAT, *About Us*, <https://unhabitat.org/about-us> (last visited Apr. 22, 2020).

155. UN HUMAN SETTLEMENTS PROGRAMME, *World Cities Rep. 2016*, at 35 (July 14, 2016), <https://doi.org/10.18356/d201a997-en>; SUSTAINABILITY ACTIVE, *UN-Habitat Assembly 2019 Focuses on the New Urban Agenda and Sustainable Urban Development* (May 29, 2019), <https://sustainabilityactive.com/2019/05/un-habitat-assembly-2019-focuses-on-the-new-urban-agenda-nua-and-sustainable-urban-development>; UN-HABITAT, *Implementing the New Urban Agenda*, <https://mirror.unhabitat.org/categories.asp?catid=9> (last visited Jan. 13, 2020).

156. See G.A. Res. 71/256, *The New Urban Agenda* (Dec. 23, 2016).

UN launched a Global Campaign on Urban Governance in 1999<sup>157</sup> and before that, the “First World Assembly of Cities and Local Authorities” in 1996,<sup>158</sup> and the “Local Agenda 21” in 1992.<sup>159</sup> Each of these identifies cities as key stakeholders and participants in the UN’s development goals.

Several formal institutions and permanent platforms now exist within the UN for cities to participate in global policymaking on a regular basis. For example, the Global Taskforce on Local and Regional Governments, which was created in 2013 and convenes the World Assembly of Local and Regional Governments, provides a “permanent structure [for states] to coordinate their [local and regional governments’] partnership with the UN.”<sup>160</sup>

In what the UCLG describes as a “landmark achievement,” the World Assembly is acknowledged in the New Urban Agenda, confirming that while national governments continue to play the “leading role” in the implementation of urban policies and legislation for sustainable urban development, subnational and local governments can offer “equally important contributions” throughout this process.<sup>161</sup> As discussed above, the Global Task Force can also boast about the inclusion of a stand-alone SDG focused on cities, SDG 11, and the emphasis in all seventeen SDGs on local implementation and monitoring, for which they successfully lobbied.<sup>162</sup> While these additions and successes might, at first glance, seem insignificant and without real impact, the fact that they occurred—that cities are mentioned as having “equally important” contributions to national governments, for example—is in and of itself an impactful and meaningful development in the state-focused world of international politics, which is guided by the even more state-centric international legal framework.

The UN has also created institutional roles for certain powerful city networks. For example, a report commissioned by the UN Secretary General in 2003 paved the way for the UCLG to take on a permanent advisory role within the UN.<sup>163</sup> As previously mentioned, UCLG now holds the presiden-

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157. UN-HABITAT, *The Global Campaign for Urban Governance* (Mar. 2002), <http://mirror.unhabitat.org/pmss/listItemDetails.aspx?publicationID=1537>.

158. HABITAT III, *Global Taskforce of Local and Regional Governments*, *supra* note 24.

159. See U.N. Conf. on Env’t and Dev., *Agenda 21*, ¶¶ 7.13–7.26, U.N. Doc. A/CONF.151/26, (Aug. 12, 1992), <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>.

160. HABITAT III, *Global Taskforce of Local and Regional Governments*, *supra* note 24.

161. G.A. Res. 71/256, The New Urban Agenda ¶15(b) (Dec. 23, 2016).

162. GLOBAL TASKFORCE OF LOCAL AND REGIONAL GOVERNMENTS, *Our Work*, <https://www.global-taskforce.org/our-work> (last visited Apr. 11, 2020).

163. In 2003, the Secretary General of the United Nations established a Panel of Eminent Persons, chaired by Fernando Enrique Cardoso, the former President of Brazil, to review the relationship between the United Nations and civil society. Proposal 18 of the resulting “Cardoso Report,” as it has come to be called, recommended that the United Nations “regard United Cities and Local Governments as an advisory body on governance matters.” Panel of Eminent Persons on United Nations-Civil Society Relations, Letter dated June 7, 2004 from the Panel Chair to the Secretary-General, at 52, U.N. Doc. A/58/817 (June 11, 2004),

cy and half the seats on the UN Advisory Committee of Local Authorities, a deliberative forum housed within UN-Habitat.<sup>164</sup> Today, UNACLA serves as an international forum where local governments can convey their opinions and perspectives to the UN and other international actors, entirely independent of their national governments, and thus, can directly participate in the shaping and implementing of certain global agendas, notably those pertaining to the UN's broadly construed Habitat agenda.<sup>165</sup>

Cities and city networks feature particularly prominently in multilateral agendas pertaining to climate change. As early as 1992, cities were recognized as relevant stakeholders in climate-related policy discussions in the UN's Rio Declaration on Environment and Development.<sup>166</sup> Since then, cities have become the focus of many international, regional, and transnational initiatives, declarations, and agreements on climate change.<sup>167</sup> Relying largely on the argument that local and regional authorities are the "closest level of public administration to citizens" and the ones responsible for making many of the actual decisions involved in implementing international agreements, cities—with the support of certain powerful international organizations—have successfully convinced the UN that municipalities and city networks should have a voice in shaping climate-related international policies.<sup>168</sup> The establishment of certain large-scale and well-endowed city networks, such as the Global Covenant of Mayors for Climate and Energy<sup>169</sup> and C40 Cities Climate Leadership Group helped this argument.<sup>170</sup> In 2014, former Mayor Michael Bloomberg was named the UN Special Envoy for Cities and Climate Change<sup>171</sup> and, in 2016, during the twenty-second Conference of the Parties for the UN Framework Convention on Climate

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[https://www.unog.ch/80256EDD006B8954/\(httpAssets\)/09916F545454357BC1256F5C005D4352/\\$file/A-58-817.pdf](https://www.unog.ch/80256EDD006B8954/(httpAssets)/09916F545454357BC1256F5C005D4352/$file/A-58-817.pdf).

164. UN-HABITAT, *UNACLA*, *supra* note 122; UCLG, *Presidency 2019–2022*, <https://www.uclg.org/en/organisation/presidency> (last visited Jan. 13, 2020).

165. UN-HABITAT, *UNACLA*, *supra* note 122.

166. U.N. Conf. on Env't and Dev., *Agenda 21*, *supra* note 159.

167. See OECD, *Cities and Climate Change* (Nov. 29, 2010), [https://www.oecd-ilibrary.org/governance/cities-and-climate-change\\_9789264091375-en](https://www.oecd-ilibrary.org/governance/cities-and-climate-change_9789264091375-en).

168. See OECD ET AL., *International Coalition on Multi-Level and Multi-Stakeholder Climate Governance for the Implementation of the Paris Agreement*, at 1, (2018) <https://www.climate-chance.org/wp-content/uploads/2018/11/why-is-a-multi-stakeholder-approach-to-climate-change-more-relevant.pdf>.

169. GLOBAL COVENANT OF MAYORS FOR CLIMATE & ENERGY, *Who We Are*, <https://www.globalcovenantofmayors.org/about> (last visited Jan. 13, 2020). The Global Covenant of Mayors for Climate and Energy was formed when the European Covenant of Mayors merged with the Global Compact of Mayors. The Global Covenant of Mayors for Climate and Energy now includes over 9,000 cities, representing over 10% of the global population. *Id.*

170. C40 CITIES, *About*, *supra* note 116.

171. Press Release, United Nations, Secretary General Appoints Michael R. Bloomberg of United States Special Envoy for Climate Action, U.N. Press Release SG/A/1791\*-BIO/5069\*-ENV/DEV/1836 (March 5, 2018), <https://www.un.org/press/en/2018/sga1791.doc.htm>.

Change (UNFCCC) in Morocco, a whole day was devoted to cities, towns, and regions, and their role in implementing the Paris Agreement.<sup>172</sup>

Cities have had similar success in convincing global policy makers of their relevance to migration-related policy debates at the international level, an easy sell given that cities are home to the vast majority of the world's migrants and refugees. In 2013, the UN General Assembly created a formal institution, the Mayoral Forum on Human Mobility, Migration and Development 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 “inform, and be informed by, national and international policymaking.”<sup>173</sup> And in 2018, an even more robust platform was created, the “Mayor’s Mechanism,” which allows cities to directly engage with the Global Forum on Migration and Development (“GFMD”), a state-led forum that is responsible for shaping the global debate on migration and development.<sup>174</sup> Thanks to the Mayor’s Mechanism, cities now have a formal, institutionalized platform from which to engage in migration-related international policy debates alongside nation-states. According to the GFMD’s own website, the Mayor’s Mechanism is “a means to formalize the relationship between the government-led GFMD process and the local authorities participating in the Mayoral Forum.”<sup>175</sup> In what was viewed as a major achievement for cities in international politics, the Global Compact on Refugees<sup>176</sup> and the Global Compact of Migration,<sup>177</sup> both adopted in December of 2018, repeatedly reference local authorities and networks of cities.<sup>178</sup> Immediately following their adoption, on the very same day, mayors and city leaders from around the globe came together to sign their own agreement, the Marrakesh Mayoral Declaration, calling for the full and for-

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172. U.N. NEWS, Marrakech: Cities Are Striving to Play a Key Role in Implementing Paris Climate Accord (Nov. 10, 2016), <https://news.un.org/en/story/2016/11/545002-marrakech-cities-are-striving-play-key-role-implementing-paris-climate-accord>. The twenty-first Conference of the Parties approved this time allocation. *Id.*

173. MIGRATION FOR DEVELOPMENT, *Global Mayoral Forum*, <http://www.migration4development.org/en/events/global-mayoral-forum> (last visited Jan. 13, 2020).

174. Stefan Rother, *Mayors Mechanism Will Become Part of the #GFMD This Year*, THE GFMD, MIGRATION, DEVELOPMENT, AND HUMAN RIGHTS (blog) (Jan. 14, 2019), <https://gfmd2010.wordpress.com/2019/01/14/mayors-mechanism-will-become-part-of-the-gfmd-this-year-thouez-bolsters-position-of-gfmd-in-supporting-implementation-of-global-compact-formigration>. The Mayor’s Mechanism was conceived during the fifth Mayoral Forum on Human Mobility, Migration and Development, which took place in Marrakech, Morocco and had as its theme “City Leadership in Implementing the UN Global Compacts.” *Id.*

175. GLOBAL FORUM ON MIGRATION AND DEVELOPMENT [GFMD], *The GFMD Mayors Mechanism*, <https://www.gfmd.org/process/gfmd-mayors-mechanism> (last visited Jan. 13, 2020).

176. See Rep. of the UN High Commissioner for Refugees, ¶¶ 37–38, U.N. Doc. A/73/12 (Part II) (2018).

177. See G.A. Res. 73/195, ¶¶ 18(c), 44 (Jan. 11, 2019).

178. Rother, *supra* note 174.

mal recognition of the role of local authorities in the implementation, follow-up, and review of both compacts.<sup>179</sup> The UN High Commissioner on Refugees enthusiastically embraced the declaration in a speech highlighting the necessity of working with city leaders to solve the global refugee crisis.<sup>180</sup>

Though roadblocks emerge when attempts are made to elevate cities to a status akin to nation-states under international law, as evidenced by the failure of the World Charter on Local Self-Government,<sup>181</sup> cities and city networks are decidedly part of the UN's agenda and organizational structure today.<sup>182</sup> Indeed, the UN is so focused on urbanization these days that a recently commissioned independent report reviewing the Habitat agenda recommended creating a whole new UN body, called UN-Urban, to act as a coordinating mechanism across all UN agencies on urban matters.<sup>183</sup> This recommendation reflects the growing importance of cities across all UN agencies, not just UN-Habitat.

With increased participation has come increased confidence, success, and influence. Cities and city networks are now openly declaring their right to be involved not just as observers, consultants, or tag-alongs of their national governments, but as key stakeholders and even “*equal partners* in shaping global policy.”<sup>184</sup> Such bold statements were not heard, or at least openly voiced, in the past.

#### D. *Mirroring State-Based Coalitions, Events, and Structures*

Another strategy increasingly used by cities and their networks to increase their influence in global policymaking is the attempt to mimic the actions of states. This allows them, in certain instances, to gain the attention of the media as well as the states whose actions and events they are mimicking. This is typically done on the sidelines of, or in the lead-up to, high-profile states-only international forums and events. For example, during the COP15 Climate Summit held in Copenhagen in 2009, while 114 heads-of-state gathered to negotiate over international climate policies, 200 mayors attend-

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179. FIFTH MAYORAL FORUM ON HUMAN MOBILITY, MIGRATION AND DEVELOPMENT, *The Marrakech Mayors Declaration*, at 2 (Dec. 8, 2018).

180. Ariane Rummery, *UNHCR Welcomes Global Mayors' Commitment to Refugees*, UN AGENCY ON REFUGEES [UNHCR] (Dec. 9, 2018), <https://www.unhcr.org/news/latest/2018/12/5c0d06a34/unhcr-welcomes-global-mayors-commitment-refugees.html>.

181. See Gerhard Engel & Alan Lloyd, *Report on Draft World Charter of Local Self-Government State of Discussions—CPL (8) 5 Part II*, COUNCIL OF EUROPE, <https://rm.coe.int/1680719e98> (last visited Jan. 13, 2020). For a discussion of the failure of the World Charter, see *supra* text accompanying notes 79–80.

182. See Frug & Barron, *supra* note 16, at 25–27.

183. Michele Acuto, *Cities Are Gaining Power in Global Politics—Can the UN Keep Up?*, THE CONVERSATION, (Sept. 14, 2017), <http://theconversation.com/cities-are-gaining-power-in-global-politics-can-the-un-keep-up-83668>.

184. GLOBAL PARLIAMENT OF MAYORS, *Newsletter* (May 2, 2019) (emphasis added), <https://mailchi.mp/8296785d6e07/gpm-newsletter-march-507985>.

ed a parallel climate summit held in the same city.<sup>185</sup> While the states-only COP15 ended without agreement or consensus (and thus in failure), the mayor-led parallel summit ended in widespread agreement on a variety of collaborative efforts and was widely viewed as a success. Cities have been active on the sidelines of all the COPs ever since.<sup>186</sup>

Another key example involves the Group of 20 (or the “G20”), whose twenty member states represent the world’s most economically and politically powerful states.<sup>187</sup> Since its formation in 1999, it has been tasked with discussing and drafting policies pertaining to global financial stability.<sup>188</sup> While the G20 has seven different engagement groups that allow for input from non-state actors, until 2018 there was no formal group or platform for cities. Cities took things into their own hands in December 2017 and created the Urban 20, or U20, on the margins of the One Planet Summit in Paris.<sup>189</sup> The C40 and UCLG, along with the mayors of Buenos Aires and Paris, took the lead in creating this new state-like platform comprised of the world’s most politically and economically powerful cities, which now issue state-like statements, declarations, and communiqués, and hold state-like summits on the sidelines of the states-only summits—including the G20 meetings.<sup>190</sup> In contrast to the often competitive or confrontational diplomacy between states in intergovernmental multilateral institutions, particularly the highly influential ones like the G20, cities and the institutions they create emphasize their shared challenges and the need to work collaboratively together in order to solve these shared challenges. According to one scholar who closely tracks the U20:

[C]ities are much more positive and willing to engage in the topic for mutual benefits . . . they have the willingness to listen, collaborate, help and support each other. There’s a lot of love and mutual respect among C40 mayors: friendly cooperation, open-arms . . . something that you’ll never see when you gather the G20.<sup>191</sup>

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185. The Climate Summit for Mayors was held from December 14–17 in the city of Copenhagen, where the COP15 was being held. See Hang Ryeol Na & Gordon M. Heisler, *C40 Large Cities Climate Summit 2009, from Seoul to Copenhagen*, 34 INT’L ASS’N FOR URB. CLIMATE 2–5, <https://www.fs.usda.gov/treearch/pubs/34270>.

186. See e.g., LOCAL GOVERNMENTS AND MUNICIPAL AUTHORITIES [LGMA], *UNFCCC Climate Change Conference*, <https://www.cities-and-regions.org/2017-cop23> (last visited Dec. 22, 2019).

187. GROUP OF 20 [G20], *What Is the G20?*, <https://g20.org/en/about/Pages/whatis.aspx> (last visited Apr. 22, 2020).

188. See *id.*

189. Ian Klaus, *The Urban 20: A Contemporary Diplomatic History*, DIPLOMATIC COURIER (Oct. 31, 2018), <https://www.diplomaticcourier.com/posts/the-urban-20-a-contemporary-diplomatic-history>.

190. *Id.*

191. Chan, *supra* note 1, at 151.

Similarly, and as described briefly above, cities met in Mechelen, Belgium for the Global Conference on Cities and Migration in November 2017 in advance of a December 2017 states-only intergovernmental meeting on the Global Compact on Migration.<sup>192</sup> During the meeting they consolidated their views on this Compact, came up with a list of recommendations, and codified them in the Mechelen Declaration, which was then submitted to the state-led event in December in an attempt to influence their discussions.<sup>193</sup> The Global Compact on Migration adopted one year later, in December of 2018, incorporated elements of the Mechelen Declaration, recommending state cooperation with “local authorities” to implement and monitor Compact objectives.<sup>194</sup> This shows that state-like city-led events and state-like but city-crafted documents can and are having very real effects on international policymaking.<sup>195</sup>

Cities and city networks not only hold side-events alongside high-level intergovernmental events in an attempt to shape the contents of international agreements, but in order to influence their implementation as well. For example, the International Coalition of Inclusive and Sustainable Cities (“ICCAR”), a large city network established by UNESCO in 2004, held an event in Nancy, France while an intergovernmental event to finalize and adopt the two Global Compacts (on Refugees and on Migration) was held in Morocco.<sup>196</sup> During ICCAR’s event, participating cities adopted the Nancy Declaration, which confirmed their commitment to upholding the two Global Compacts, but in a way that eliminates opportunities for prejudice and bigotry by highlighting “the positive and multiple contributions of these groups [migrants and refugees] to all spheres of life in receiving, transition and origin countries.”<sup>197</sup> It also renewed their pledge to “develop effective responses to the rise of hate, bigotry and violent extremism,” and recog-

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192. UCLG COMMITTEE ON SOCIAL INCLUSION, PARTICIPATORY DEMOCRACY AND HUMAN RIGHTS, *Global Conference on Cities and Migrants*, <https://www.uclg-cisdg.org/en/news/events/global-conference-cities-and-migrants-mechelen> (last visited Apr. 12, 2020).

193. INTERNATIONAL ORGANIZATION FOR MIGRATION, *Global Conference on Cities and Migration* (Nov. 20, 2017), <https://belgium.iom.int/news/global-conference-cities-and-migration>.

194. Compare *Mechelen Declaration*, *supra* note 139, with G.A. Res. 73/195, Global Compact for Safe, Orderly and Regular Migration, ¶¶ 18(c), 19(c), 20, 21(e), 23(k), 24(c), 28(c), 30(e), 32(f), 35(j), 37(i), 39(c), 44, 53 (Dec. 19, 2018) (listing cooperation with local authorities as a means to realize various compact objectives).

195. See UCLG, *Mayors and Governors Around the World Adopted the Mechelen Declaration on Cities and Migration* (Nov. 17, 2017), <https://www.uclg.org/en/media/news/mayors-and-governors-around-world-adopted-mechelen-declaration-cities-and-migration>.

196. See MODERN DIPLOMACY, *Cities Rally Against Hate, Discrimination, Racism, and Violent Extremism* (Dec. 14, 2018), <https://moderndiplomacy.eu/2018/12/14/cities-rally-against-hate-discrimination-racism-and-violent-extremism>.

197. UNESCO, ICCAR Global Steering Committee Declaration of Nancy, *supra* note 125.

nized the important role that cities and city networks play in implementing UN policies.<sup>198</sup>

City networks are also mirroring regional state-based organizations. UCLG Africa attempts to mimic many of the things that the African Union would normally be expected to do,<sup>199</sup> while the Congress of Local and Regional Authorities, which is structured like a traditional congressional body with two chambers composed of representatives that serve 4-year terms, attempts to perform many of the roles traditionally played by the Council of Europe.<sup>200</sup> By attempting to mirror or mimic these regional organizations, these city networks are, like many of the examples cited above, not only attempting to advance their own agendas, but to catch the eye of regional state-based organizations in an effort to shape their policy agendas.

More and more, cities are also engaging in their own international—or what I would call “global”—relations, separate and autonomous from their national counterparts. One way they are doing this is by mimicking the actions and structures of their federal governments and setting up their own offices of international affairs. According to the Nina Hachigian, the first deputy mayor for international affairs in Los Angeles, cities are increasingly “global actors in their own right.” Hachigian, a former U.S. Ambassador, has written about how her work with the city of Los Angeles has been similar to her work as a diplomat for the U.S. government:

I’ve found in my transition to municipal government that I still interact with diplomats all the time, negotiate the texts of agreements, and attend meetings between heads of state and my principal [in this case, the mayor of Los Angeles]. The difference is the immediacy of the results, which is gratifying, and the aim to deliver to the people in just a single metropolis.<sup>201</sup>

Los Angeles is not alone in creating an international affairs unit or appointing a lead city diplomat to handle its global engagements. With “the overwhelming majority of cities and states [now] conducting foreign affairs,” many cities are realizing that they require dedicated staff and specialized offices to carry out this consuming task.<sup>202</sup> According to a recent report on

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198. *Id.*

199. UCLG, *8th Africities Summit: Envisioning the Future for the African Region*, <https://www.uclg.org/en/taxonomy/term/1620> (last visited Jan. 13, 2020); AFRICAN UNION, *What We Do: AU in a Nutshell*, <https://au.int/en/au-nutshell> (last visited Apr. 12, 2020).

200. COUNCIL OF EUROPE, *A European Assembly of Local and Regional Elected Representatives*, <https://www.coe.int/en/web/congress/overview> (last visited Jan. 13, 2020). The Congress of Local and Regional Authorities is made up of two chambers: the Chamber of Local Authorities and the Chamber of Regions. The Congress has 324 representatives and 324 substitutes, all appointed for four years, representing over 150,000 local and regional authorities in the Council of Europe’s 47 member states. The Congress’s work is organized within three committees: a Monitoring Committee, a Governance Committee, and a Current Affairs Committee. *Id.*

201. Hachigian, *supra* note 2.

202. *See* Tavares, *supra* note 145.

city diplomacy conducted by leading experts on this topic, “among cities studied across [] various projects, regardless of size, almost all cities have some form of governance structure in place to manage engagements with other national or international cities.”<sup>203</sup>

Cities’ offices of international affairs are tasked with engaging in foreign diplomacy with not only their municipal counterparts abroad, but with national and regional authorities too. Cities in Europe, beginning in the mid 1990s, have been especially active in setting up what have been referred to as “Offices of International Affairs” (“OIA”).<sup>204</sup> As European cities became increasingly active in helping the UN to advance its Millennium Development Goals and in the Fair Trade movement, many mayors throughout Europe saw the need to create specialized OIAs to handle the flow of international engagements and work. Today, OIAs tend to be housed organizationally within the mayor’s office and their portfolios include a wide variety of tasks, including planning and preparing for inbound and outbound diplomatic delegations, maintaining ties with partner cities and international city networks, overseeing and monitoring the progress of international development projects, and sponsoring and organizing cultural and national heritage day events, among many other efforts and projects.<sup>205</sup>

In some cases, cities are codifying their international involvement in their governing municipal ordinances. When Mexico City decided to assert its autonomy by adopting its own “Constitution” in 2017, it devoted one of its crowd-sourced articles to solidifying the city’s commitment to promoting its presence in the world and among “the global system of cities and local government networks.”<sup>206</sup>

### E. *Harnessing the Language of International Law*

Cities are deploying the language of IL for two reasons and in two different ways. First, they are citing IL as a way to create their own independent platform in the international arena and to gain leverage within the state-dominated world of international politics.<sup>207</sup> Second, they are using IL to challenge the actions or inaction of their national governments at the national level.<sup>208</sup> Both are attempts to act autonomously from their nation-states in

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203. Acuto et al., *supra* note 135, at 6.

204. Fishbone, *supra* note 113, at 4.

205. *Id.* at 4–5.

206. See Mariana Flores, *The First Constitution of Mexico City*, METROPOLIS (Feb. 21, 2017), <https://www.metropolis.org/news/first-constitution-mexico-city>; Gregory Scruggs, *The People Power Behind Mexico City’s New Constitution*, CITYLAB, (Feb. 3, 2017), <https://www.citylab.com/equity/2017/02/the-people-power-behind-mexico-citys-new-constitution/515637>.

207. ASSER INSTITUTE, *Cities and International Law in the Urban Age* (Feb. 19, 2019), <https://www.asser.nl/about-the-institute/asser-today/cities-and-international-law-in-the-urban-age>.

208. See generally Moritz Baumgärtel & Barbara Oomen, *Pulling Human Rights Back In? Local Authorities, International Law, and the Reception of Undocumented Migrants*, 51 J.

order to advance their own policy positions when those positions are at odds with those of their national counterparts.<sup>209</sup> And because IL transcends individual states, it provides cities with a legal foothold to do so. Of course, nation-states, as the legal and political superiors of their sub-national territories (whether under national or international law), have ultimate veto power over the policies and laws adopted by municipalities.<sup>210</sup> But this has not stopped cities from using IL to gain leverage, as well as the national and international spotlight, for their own policy goals—especially when those goals conflict with their country’s national goals.

These attempts are especially apparent in recent years in the areas of international environmental law and human rights law, particularly asylum and refugee law. “Sanctuary cities,” which stake their claim on the international legal right of individuals to seek safe asylum in other countries, and “human rights cities,” which also situate their legitimacy in international human rights law, are attempts by cities to overcome the constraints of state sovereignty and to utilize IL in order to enact their own agendas when those agendas conflict with national policies or laws.<sup>211</sup> In the words of Barbara Oomen and Mortiz Baumgärtel, two scholars of human rights law in the context of cities, “local authorities invoke responsibilities derived from international human rights law to ‘decouple’ their policies from those adopted nationally.”<sup>212</sup> Cities oftentimes do this in alliance with NGOs and other affected civil society actors, who together use the power of advocacy, negative publicity, and shaming campaigns to compel states to change their foreign policy goals.<sup>213</sup> For example, in the wake of U.S. President George W. Bush’s decision to go to war in Iraq, cities, NGOs, and advocacy groups came together to denounce the decision, and these denunciations were often framed at least partly in the language of IL.<sup>214</sup>

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LEGAL PLURALISM & UNOFFICIAL L. 172, 176 (2019). One example of this is cities’ use of international human rights law to challenge the migration policies of their national governments and to set up their own more inclusive and welcoming policies, such as through sanctuary cities in the United States. *Id.*

209. See generally DAVID HARVEY, *REBEL CITIES: FROM THE RIGHT TO THE CITY TO THE URBAN REVOLUTION* (2012).

210. See generally Gerald Frug, *Empowering Cities in a Federal System*, 19 *URB. LAW.* 553 (1987).

211. Oomen & Baumgärtel, *supra* note 5, at 608.

212. *Id.* at 614.

213. Stephen Shergold, *When Civil Society Overreaches Regulations*, *JD SUPRA* (Apr. 11, 2019), <https://www.jdsupra.com/legalnews/when-civil-society-overreaches-62070> (arguing that cities and NGOs, working together, “have been holding governments to account in the courts for non-compliance in relation to climate change and air quality, as well as successfully driving policy change.”).

214. See GLOBAL POLICY FORUM, *Opposition to the War and Occupation of Iraq*, <https://www.globalpolicy.org/challenges-to-the-us-empire/opposition-to-the-war-and-occupation-in-iraq-8-37.html> (last visited Jan. 13, 2020) (tracking opposition to the war in Iraq from 2006 to 2011); Los Angeles, Cal., City Council Anti-War Resolution (Feb. 21, 2003).

This behavior, termed “municipal internationalism,” was also apparent when U.S. city councils issued resolutions calling for a nuclear weapons freeze, urging divestment from firms conducting business in South Africa, opposing the adoption of the Free Trade Agreement of the Americas, and demanding cuts in the Pentagon’s budget.<sup>215</sup>

When President Trump announced in June 2017 that the United States was pulling out of the Paris Agreement,<sup>216</sup> the Mayors of Paris, France, and Pittsburgh, Pennsylvania responded with an op-ed in the *New York Times*.<sup>217</sup> In it, they announced that “an unprecedented alliance is emerging” among the more than 7,400 cities worldwide that are committed to upholding the Paris Agreement’s goals within their own cities, irrespective of their country’s level of commitment.<sup>218</sup> They explained that cities committed to this alliance not only for their own citizens, but also for the citizens of “every other city in the world.”<sup>219</sup>

While the cities’ efforts did not cause Trump to reverse his position, their editorial did put pressure on other U.S. states and cities to adopt similar standards and policies that aligned with, or in some cases were more ambitious than, international environmental law: Though they cannot officially become signatories, over 400 U.S. cities have pledged to adopt the Paris Climate Agreement into local law or implement it through local practices,<sup>220</sup> and the number of non-state commitments jumps to above 1,000 when businesses and federal U.S. states are added into the count.<sup>221</sup>

Municipal activism is not only happening in the United States, but in cities around the world. The Dutch city of Utrecht, as just one example, often invokes the work of UN Special Rapporteurs and international and regional laws in its efforts to shelter asylum seekers despite a national prohibition against doing so.<sup>222</sup> Barcelona, like Utrecht, has styled itself a “human

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215. Frug & Barron, *supra* note 16, at 28.

216. Paris Agreement, Annex A, No. 54113 (Dec. 12, 2015), <https://treaties.un.org/doc/Publication/UNTS/No%20Volume/54113/Part/I-54113-0800000280458f37.pdf>. This is a pact between 195 states to reduce global greenhouse gas emissions.

217. Anne Hidalgo & William Peduto, *The Mayors of Pittsburgh and Paris: We Have Our Own Climate Deal*, N.Y. TIMES (June 7, 2017), <https://www.nytimes.com/2017/06/07/opinion/the-mayors-of-pittsburgh-and-paris-we-have-our-own-climate-deal.html>.

218. *Id.*

219. *Id.*

220. Climate Mayors, *407 US Climate Mayors Commit to Adopt, Honor and Uphold Paris Climate Agreement Goals*, MEDIUM (June 1, 2017), <https://medium.com/@ClimateMayors/climate-mayors-commit-to-adopt-honor-and-uphold-paris-climate-agreement-goals-ba566e260097>.

221. Georgina Gustin, *Over 1,400 U.S. Cities, States and Businesses Vow to Meet Paris Climate Commitments*, INSIDE CLIMATE NEWS (June 6, 2017), <https://insideclimatenews.org/news/05062017/paris-climate-agreement-trump-bloomberg-cities-states-businesses>.

222. Barbara Oomen, *Cities, Refugees, and Migration*, in EDGAR HANDBOOK ON INTERNATIONAL LAW AND CITIES (forthcoming 2020); HUMAN RIGHTS CITY NETWORK, *Human Rights City: Utrecht*, <https://humanrightscities.net/humanrightscity/utrecht> (last visit-

rights city.”<sup>223</sup> It has introduced a human rights policy, appointed a local human rights ombudsman, created a Human Rights Observatory and two municipal services tasked with protecting human rights, and adopted a local charter on human rights.<sup>224</sup> Amsterdam has similarly adopted a city-wide human rights agenda rooted in international human rights law,<sup>225</sup> often citing the latter in order to justify its local policies when those policies conflict with national-level ones.<sup>226</sup> Similarly, mayors throughout Italy and in London have openly stood up to their national counterparts and refused to enact recent anti-immigration policies, justifying their refusal on the grounds that to do otherwise would violate the international rights of refugees and migrants.<sup>227</sup>

Cities, both large and small, are also codifying treaties, wholesale and in part, into local law.<sup>228</sup> Many mayors throughout the United States adopted the Paris Climate Agreement—or some version of it—into local legislation

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ed Apr. 12, 2020); HumanRightsUtrecht.nl (city of Utrecht’s human rights website) (in Dutch) (last visited Apr. 12, 2020).

223. UCLG Comm. on Soc. Inclusion, Participatory Democracy and Hum. Rts., *Building the ‘City of Rights’: The Human Rights Policy of Barcelona* (1995), <https://www.uclg-cisd.org/en/observatory/building-%E2%80%98city-rights%E2%80%99-human-rights-policy-barcelona>.

224. *Id.* The policy implements human rights locally and aims to turn Barcelona into a “city of rights.” Both international human rights and the European Charter for the Safeguarding of Human Rights in the City (“ECHR”) provide the human rights language and framework of the policy. Funding for the policy comes from the municipal budget. Although the objective of becoming a city of rights arguably concerns the entire local government, the main institution concerned with implementation is the Civil Rights Department (“RDC”) of the municipality, within which different bodies operate: (1) the Office for Non-Discrimination, which mainly processes complaints of discrimination through mediation; (2) the Office for Religious Affairs, which promotes the religious freedom of the city’s religious communities in their relationship with the local administration and population; (3) the Council for lesbian, gay, bisexual, and transgender people, which is an advisory body composed of NGOs, collectives, and other informal groups concerned with LGBT issues (though, recently, a plan for the mainstreaming of LGBT rights has also been promoted by the RDC); and (4) the Human Rights Observatory, which checks the status of human rights in the city. In addition to the RDC, the Sindic(a) de Greuges de Barcelona (the city’s ombudsperson) performs audits on the local administration that, especially considering the independent status of this institution, provide a crucial support to the safeguarding of human rights at the city level.

225. CITY OF AMSTERDAM, *Policy: Diversity*, <https://www.amsterdam.nl/en/policy/policy-diversity> (last visited Jan. 13, 2020) (discussing Amsterdam’s “human rights policy”).

226. See Anna Plyushteva, *The Right to the City and Struggles over Urban Citizenship: Exploring the Links*, AMSTERDAM SOC. SCI., 2009, at 81–97.

227. Oomen & Baumgärtel, *supra* note 5, at 608 (discussing London’s adoption of a municipal identification program for undocumented immigrants at part of their #LondonIsOpen campaign); Chiara Giordano, *Italian Mayors Rebel Against Salvini’s Laws Cracking Down on Asylum Seekers*, INDEPENDENT (Jan. 4, 2019), <https://www.independent.co.uk/news/world/europe/italy-immigration-matteo-salvini-laws-asylum-seekers-mayors-a8711051.html>.

228. Two examples of cities adopting entire treaties into law are San Francisco and Los Angeles adopting the Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW]. See *infra* notes 230–231.

after President Trump announced his intention to withdraw from the agreement. Before that, in 2005, nearly 150 cities—representing almost thirty million residents—signed on to the Kyoto Protocol after President Bush refused to do so.<sup>229</sup> Similarly, the mayors of San Francisco (in 1998)<sup>230</sup> and, many years later, Los Angeles (in 2015)<sup>231</sup> adopted the UN Convention on the Elimination of All Forms of Discrimination Against Women into municipal law, despite the United States’ ongoing refusal to ratify it at the national level.<sup>232</sup> In Europe, a variety of cities symbolically “ratified” the International Convention on the Rights of Persons with Disabilities and codified parts of it into local law, long before many of their national governments followed suit.<sup>233</sup>

City networks also harness the language of IL in order to advance their own, separate goals. For example, Eurocities, a network of major European cities founded in 1986, issued a statement in 2015 on “Asylum in Cities” in the wake of an influx of refugees from parts of the Middle East into Europe.<sup>234</sup> In this statement, they cite refugees’ “right to seek international protection,” as codified under “European treaties and international law,” to support their efforts to provide safe haven to refugees through “Solidarity Cities.”<sup>235</sup> The European Coalition of Cities Against Racism, an international city network launched in 2004 that now includes over 120 municipalities from twenty-four different European countries, bases its advocacy and policy work on the international Convention on the Elimination of All Forms of Racial Discrimination.<sup>236</sup>

Cities’ efforts to wield the language of international law appear to be paying off, or, at least, catching the ear of those in the international policy- and law-making world. The UN Human Rights Council, for example, has noted that local governments have a shared responsibility and a mutually complementary role in the domestic implementation of international human rights norms and standards, and it has called for additional research on local

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229. Paul Brown, *US Cities Snub Bush and Sign Up to Kyoto*, *GUARDIAN* (May 16, 2005), <https://www.theguardian.com/environment/2005/may/17/usnews.climatechange>.

230. San Francisco, Cal., CEDAW Ordinance (1998).

231. Los Angeles, Cal., Ordinance 175735 (Dec. 30, 2003) (providing for the local implementation of CEDAW).

232. UN Hum. Rts. Off. of the High Comm’r, *Status of Ratification Interactive Dashboard*, <https://indicators.ohchr.org> (last visited Dec. 23, 2019) (showing CEDAW ratification; the United States has not yet ratified CEDAW).

233. Oomen & Baumgärtel, *supra* note 5, at 617.

234. EUROCITIES, *Statement on Asylum in Cities* (May 2015), [http://nws.eurocities.eu/MediaShell/media/EUROCITIES%20stmt\\_asylum\\_May%202015.pdf](http://nws.eurocities.eu/MediaShell/media/EUROCITIES%20stmt_asylum_May%202015.pdf).

235. *Id.* at 1–2.

236. EUROPEAN COALITION OF CITIES AGAINST RACISM [ECCAR], *General Information*, [https://www.eccar.info/sites/default/files/document/ECCAR\\_basic%20information%202\\_0.pdf](https://www.eccar.info/sites/default/files/document/ECCAR_basic%20information%202_0.pdf) (last visited Jan. 13, 2020); ECCAR, *List of the Member Cities of ECCAR*, <https://www.eccar.info/en/members> (last visited Jan 13, 2020). ECCAR was not the independent creation of cities but was launched instead by UNESCO; it is supported by the UN High Commissioner for Human Rights and UCLG. See ECCAR, *General Information*.

governments and human rights.<sup>237</sup> Similarly, the UN High Commissioner for Refugees, whose office is responsible for refugees, invited cities to join the #WithRefugees campaign, thereby highlighting and strengthening the role of cities in protecting and housing refugees.<sup>238</sup>

#### F. *Adopting and Implementing “Global Law”*

Cities and city networks are not just using the verbiage of IL; they are adopting joint statements, declarations, covenants, commitments, and action and policy plans that look and act strikingly similar to international legal agreements. Like other forms of “global law” these instruments are rooted in the consent of the signatory. And just like other global agreements, they are typically valid only with signature by officially authorized individuals (often mayors or top city officials, like those in the city’s OIA), an official deposit of the signed agreement with a specially designated agency or authority (typically the agreement’s sponsor), and some form of monitoring and reporting, albeit often in the form of self-monitoring and self-reporting. As in much of public IL, which in many instances is enforced through shaming or pressure campaigns rather than typical enforcement measures,<sup>239</sup> the agreements typically lack robust enforcement mechanisms (such as sanctions in the event of a violation).

These law-like and legally influential documents are increasingly common and increasingly impactful. For example, the Global Covenant of Mayors for Climate and Energy is an international alliance of cities and local governments with a shared long-term vision of promoting and supporting voluntary action to combat climate change.<sup>240</sup> In its efforts to mobilize cities and local governments to be active contributors to a global climate solution, it encourages cities to make “strategic action plans” that are registered, implemented, made publicly available, and monitored by the Covenant’s secretariat.<sup>241</sup> Through its efforts, the Global Covenant of Mayors has received the commitment of over 9,000 cities and local governments from six continents and 127 countries, representing more than 770 million residents. The commitment process, which all “signatory cities” must undergo,<sup>242</sup> in many ways mirrors the treaty-signing process performed by nation-states. Cities or local governments wishing to formalize their commitment

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237. Rep. of the Advisory Comm. to the Hum. Rts. Council on Its Ninth Session, at 18, U.N. Doc. A/HRC/AC/9/6 (August 14, 2012); ECCAR, *General Information*, *supra* note 236.

238. UNHCR, *Cities #WithRefugees*, <https://www.unhcr.org/withrefugees/cities> (last visited Jan. 13, 2020).

239. Frederic Kirgis, *Enforcing International Law*, ASIL INSIGHTS, (Jan. 22, 1996), <https://www.asil.org/insights/volume/1/issue/1/enforcing-international-law>.

240. THE GLOBAL COVENANT OF MAYORS FOR CLIMATE & ENERGY, *About Us*, <https://www.globalcovenantofmayors.org/about> (last visited Jan. 13, 2020).

241. *Id.*

242. THE GLOBAL COVENANT OF MAYORS FOR CLIMATE & ENERGY, *How to Join the Global Covenant of Mayors*, <https://www.globalcovenantofmayors.org/participate> (last visited Jan. 13, 2020).

with the Global Covenant of Mayors must submit a commitment document signed by a government official according to their local governmental procedures.<sup>243</sup> Once submitted, cities are called on to “develop a greenhouse gas emissions inventory,” adopt a “full climate action plan,” define “ambitious climate mitigation targets,” and regularly report on their progress.<sup>244</sup>

Similarly, C40 has crafted a number of “pacts” and “declarations” that its members can choose to accept a la carte. Once accepted, however, these agreements are treated as formal commitments and require regular reporting and monitoring. For example, C40’s Green and Healthy Street Declaration commits its signatories to procure only zero-emission buses by 2025 and to ensure that a major portion of their cities are entirely emission-free by 2030.<sup>245</sup> Signatories must fill out a “planned action template” and submit it to the C40 Secretariat for formal recording.<sup>246</sup> The full list of committed cities and their specific action plans are then published online in an effort to hold them publicly accountable.<sup>247</sup> C40’s Advancing Towards Zero Waste Declaration is another example of a global law generated and overseen by a city network.<sup>248</sup> This declaration obligates cities and regions to cut the amount of waste generated by each of their citizens by 15% by 2030. Signatory cities must “publicly report” on their progress every two years, submit a planned action template to C40’s secretariat, and agree to have their names published online in order to be held publicly accountable.<sup>249</sup> To date, twenty-eight cities and regions have signed on.<sup>250</sup>

As hinted above, at times city networks join forces to create and implement global laws. The One Planet Charter, for example, is a joint initiative of C40, the Global Covenant of Mayors, and ICLEI that commits signatory cities to enact specific climate action policies accelerating implementation of the Paris Agreement.<sup>251</sup> Commitments must be registered with the Global Covenant of Mayor’s Secretariat, a list of “committed cities” is made publicly available, and cities with particularly ambitious “city

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243. *Id.*

244. *Id.*

245. C40 CITIES, *Our Commitment to Green and Healthy Streets*, <https://www.c40.org/other/fossil-fuel-free-streets-declaration> (last visited Jan. 13, 2020).

246. *Id.*

247. C40 CITIES, *Green and Healthy Streets: Fossil-Fuel-Free Streets Declaration—Planned Actions to Deliver Commitments*, [https://c40-production-images.s3.amazonaws.com/other\\_uploads/images/1924\\_FFF\\_ACTION\\_010219.original.pdf](https://c40-production-images.s3.amazonaws.com/other_uploads/images/1924_FFF_ACTION_010219.original.pdf) (last visited Jan. 13, 2020).

248. C40 CITIES, *Advancing Toward Zero Waste Reduction*, <https://www.c40.org/other/zero-waste-declaration> (last visited Jan. 13, 2020).

249. *Id.*

250. *Id.*

251. THE GLOBAL COVENANT OF MAYORS FOR CLIMATE & ENERGY, *Join the One Planet Charter and Let’s Set Up Climate Action in 2018!* (June 12, 2018), <https://www.globalcovenantofmayors.org/press/join-one-planet-charter-lets-step-climate-action-2018>.

climate actions” are featured on their website.<sup>252</sup> To date, over 800 cities have signed the charter.<sup>253</sup>

In other cases, global laws are conceived of by individual mayors. The “Urban Food Policy Pact,” for example, was launched by the Mayor of Milan, Italy in February 2014 and signed by 100 cities. This pact “commits” signatories to build and establish food systems centered on sustainability and social justice. After the pact was signed by all 100 cities, it was deposited with UN Secretary General Ban Ki-Moon, following the same protocol as international treaty adoptions and ratifications.<sup>254</sup>

Other global laws include the World Green Building Council’s Net Zero Carbon Building Commitment,<sup>255</sup> which obligates signatories to follow a five-stage process to ensure that all of their buildings, whether old or new, meet net-zero carbon standards by 2050, and the European Charter for Safeguarding Human Rights in the Cities, which has now been signed by over 400 cities.<sup>256</sup> Moreover, many of the agreements and pacts previously mentioned throughout this article, such as the Nancy Declaration, the Mechelen Declaration, and the Shanghai Declaration, as well as others not here mentioned like the Climate Mayor’s Pledge, could also be included in this growing list. And finally, legal documents signed between international organizations and international city networks, such as the memorandum of understanding recently signed by the Global Parliament of Mayors (“GPM”)<sup>257</sup> and UN-Habitat to formalize the GPM’s implementation of the SDGs at the local level,<sup>258</sup> could also be placed in the growing body of legal-like instruments being signed and implemented by mayors around the

252. *Id.*

253. C40 CITIES, *Scores of Cities Commit to Bold Climate Action to Deliver on the Highest Ambition of Paris Agreement*, [https://www.c40.org/press\\_releases/scores-of-cities-commit-to-bold-climate-action-to-deliver-on-the-highest-ambition-of-paris-agreement](https://www.c40.org/press_releases/scores-of-cities-commit-to-bold-climate-action-to-deliver-on-the-highest-ambition-of-paris-agreement) (last visited Apr. 12, 2020).

254. MILAN URBAN FOOD POLICY PACT, *History*, <http://www.milanurbanfoodpolicy.pact.org/history> (last visited Jan. 13, 2020).

255. WORLD GREEN BLDG. COUNCIL, *The Net Zero Carbon Buildings Commitment*, <https://www.worldgbc.org/thecommitment> (last visited Jan. 13, 2020).

256. Oomen & Baumgärtel, *supra* note 5, at 615.

257. The Global Parliament of Mayors (“GPM”) is an international city network created in 2016 and conceived of by best-selling author and scholar Benjamin Barber in the final chapter of his book *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities*. The GPM aims to represent and amplify the opinions of mayors and cities at the international law. BARBER, *supra* note 21. It has the goal of informing international policies on issues of local importance, such as migration, health, and security. GLOBAL PARLIAMENT OF MAYORS [GPM], *UN Habitat and Mannheim Work Towards Accreditation of GPM*, <https://globalparliamentofmayors.org/un-habitat-mannheim-work-towards-accreditation-gpm> (last visited Jan. 13, 2020). I have served as the principal investigator for a joint project between the GPM and the Georgetown Law Center, and I continue to work with the GPM.

258. GPM, *UN Habitat and Mannheim Work Towards Accreditation of GPM*, *supra* note 257.

world.<sup>259</sup> The GPM contributes to global policy discussions, in part, through its virtual voting platform, which allows participating mayors to vote on specific policy outcomes from wherever they might be in the world, which can then be delivered to policy-makers at the international level.<sup>260</sup> According to the GPM, this represents “an excellent example of adapting the international agenda through local action.”<sup>261</sup>

In some cases, global laws involve a variety of non-state actors, including private organizations and foundations in addition to international organizations and cities. For example, in March 2016, mayors from around the world signed on to the New York Proposal for Inclusive Growth in Cities as a symbol of their commitment to address rising inequality.<sup>262</sup> By signing on to the proposal, all of the signatory mayors agreed to champion an “inclusive growth agenda” in their cities, to share best practices, and to help shape a policy roadmap to achieve more inclusive growth in cities worldwide.<sup>263</sup>

Of course, challenges arise with respect to these softer, non-binding forms of “law.” At root, all are voluntary and unenforceable, and therefore rely on the power of persuasion, reputation, and self-reporting. Moreover, verification is often difficult, and standards are often amorphous. For example, in the “frequently asked questions” section of C40’s pledge “to deliver inclusive climate action that benefits all citizens equitably,” C40 concedes that “standardization of outcomes is unlikely to be possible” and that “inclusive climate action” will be different in different cities and regions, making any formal way to track or report violations difficult at best.<sup>264</sup> Mayors are encouraged to define inclusivity in the way that is most suitable to their particular geographical, social and economic contexts. Yet, these agreements are still law, and legally influential and impactful. What is needed is a new vocabulary, a new conceptual framework, indeed a whole new way of conceptualizing the changing role of cities within international politics. Our current terminology and our current framework are ill equipped to accurately and holistically understand the increasingly influential roles that cities are now playing both on the national and international political stages. A tentative attempt to offer a new vocabulary and conceptual lens to better under-

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259. UNITED NATIONS, *Goal 11: Make Cities Inclusive, Safe, Resilient and Sustainable*, <https://www.un.org/sustainabledevelopment/cities> (last visited Jan. 13, 2020).

260. GPM, *Virtual Platform*, <https://globalparliamentofmayors.org/virtual-platform> (last visited Apr. 12, 2020).

261. *Id.*

262. Angie Fyfe, *The New York Proposal for Inclusive Growth in Cities*, ICLEI (Mar. 30, 2016) <http://icleiusa.org/the-new-york-proposal-for-inclusive-growth-in-cities>. The New York Proposal was a joint initiative of the OECD, the Ford Foundation, Brookings, Cities Alliance, C40 Cities Climate Leadership Group, ICLEI, National League of Cities, UCLG, and United Way Worldwide. *Id.*

263. GPM, *UN Habitat and Mannheim Work Towards Accreditation of GPM*, *supra* note 257.

264. C40 CITIES, *Pledging to Deliver Inclusive Climate Action That Benefits All Citizens Equitably: FAQ*, [https://c40-production-images.s3.amazonaws.com/other\\_uploads/images/1881\\_Pledging\\_to\\_deliver\\_ICA\\_FAQ\\_for\\_website.original.pdf](https://c40-production-images.s3.amazonaws.com/other_uploads/images/1881_Pledging_to_deliver_ICA_FAQ_for_website.original.pdf) (last visited Jan. 13, 2020).

stand the changing status of cities at the global level, which I hope that future scholarship and researchers will deepen and build upon, is presented below.

#### IV. THE URBANIZATION OF GLOBAL RELATIONS AND GLOBAL LAW

Although the literature in this field is outdated and empirically and conceptually wanting in certain respects, it nevertheless points to a reality: Cities' influence, assertiveness, and ability to shape outcomes at the international level (their "soft power") has been escalating since shortly after the turn of the twenty-first century. This is true despite the fact that cities no longer have militaries or full sovereignty, and they do not harbor the traditional hard power tools embodied by states. Yet they do have power in some senses: the ability to exercise influence over others, and more specifically, the ability to get other actors to do something that they otherwise would not do.<sup>265</sup> Cities influence the actions of others—whether other cities or city networks, civil society organizations, international organizations, private businesses, or states—throughout the globe.

Cities' power is reflected in their ability to attract people, money, and goods from around the globe. Cities might not have powerful weaponry, but they (at least global and mega-cities) have powerful brands, extraordinary wealth, incredible diversity, and the most cutting-edge innovations, infrastructure, and technology. Moreover, they have the trust of their residents, the ability to mobilize collectively, and a democratic legitimacy often lacking in nation-states.<sup>266</sup> They are operating globally, signing and implementing things that look and act like international law, forming powerful partnerships, and influencing the actions and policy positions of other international actors, including nation-states.

Yet, if one were to examine black letter IL or an IR textbook, it would be easy to conclude that cities are entirely absent from the international political arena. While cities are taking on greater, more visible, and more influential roles in international affairs, they remain largely powerless under IL, which continues to prioritize states as the primary possessors of rights and duties. The little scholarship that exists on this topic—notably including the body of literature known as "international local government law"—includes many insights and valuable contributions, but tries to pigeon hole cities into the constrained parameters and vocabulary of IL and IR, neither of which—and especially not IL—easily map onto cities and their changing status in international politics. By mixing up norms, laws, influence, persuasion, and coercion, this literature conflates two distinctions that, when crisply applied to cities, can more usefully describe their current position in the international arena. The first distinction, which receives scrutiny from IR

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265. This classic definition of "power" was formulated by renowned political scientist Robert Dahl. Robert Dahl, *The Concept of Power*, 2 BEHAV. SCI. 201, 201–15 (1957).

266. Florida, *supra* note 3.

scholars, is soft versus hard *power*.<sup>267</sup> The second, which is studied by IL scholars, is soft versus hard *law*.<sup>268</sup>

### A. Cities' Rising Soft Power

Soft power is the ability to achieve objectives, oftentimes foreign policy objectives, through attraction and persuasion.<sup>269</sup> Put another way, it is the ability to influence the actions of others without force or coercion. In the current globalized and digitized era, where power is more diffuse and our common challenges are more interdependent, “victory often depends not on whose army wins, but on whose story wins.”<sup>270</sup> More and more actors, including non-state actors, are asserting themselves in national and global politics, which are no longer the exclusive terrain of nation-states. Joseph Nye, who first coined the term “soft power” in 1990, applied this term, like most political scientists, only to states.<sup>271</sup> Yet, soft power is equally applicable to other non-state actors, including cities, and can help to explain their rising influence. Indeed, the things that Nye identifies as comprising a nation’s soft power—favorability toward foreign countries, foreigners, and tourists; higher education institutions, embassies, museums, and cultural organizations; technological and digital sophistication; access to creative industries and entertainment; and the ability to facilitate foreign exchanges, among others—are almost always found in local-level policies.<sup>272</sup> The same things that give nation-states increased soft power give cities increased soft power, and, in many instances these days, cities, rather than states, seem to be the leaders in acquiring and increasing this type of power.

One of the primary ways that cities have acquired and increased their soft power is by forming the city networks described above. When Blank wrote about the rise of “global associations of localities” in 2006, he could list only nine examples.<sup>273</sup> Today, well over 200 such networks exist and this number is continually rising, with an average of four new international city networks emerging every year.<sup>274</sup> Similarly, when Blank, Frug, and Barron wrote their articles on cities and IL in the early 2000s, examples of the ways in which cities were adopting and enforcing international norms and acting

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267. See generally JOSEPH NYE, *SOFT POWER: THE MEANS TO SUCCESS IN WORLD POLITICS* (2004).

268. See Kenneth Abbott & Duncan Snidal, *Hard and Soft Law in International Governance*, 54 INT’L ORG. 421 (2000).

269. JONATHAN MCCLORY, *THE SOFT POWER 30: A GLOBAL RANKING OF SOFT POWER 12* (2018), <https://softpower30.com/wp-content/uploads/2018/07/The-Soft-Power-30-Report-2018.pdf>.

270. Joseph Nye, *The Information Revolution and Soft Power*, 113 CURRENT HISTORY 19, 20 (2014) (citing John Arquilla).

271. See JOSEPH NYE, *BOUND TO LEAD: THE CHANGING NATURE OF AMERICAN POWER* (1990).

272. MCCLORY, *supra* note 269, at 31–33.

273. Blank, *supra* note 26, at 922–23.

274. Leffel & Acuto, *supra* note 113.

as independent global actors were admittedly “hard to pinpoint.”<sup>275</sup> But today, nearly fifteen years later, this is no longer the case. Examples of the ways in which cities are helping to advance certain international norms and acting as autonomous global actors now abound.

### B. *Cities’ Use of Soft Law*

Soft law describes those quasi-legal instruments that are neither strictly binding nor completely lacking in legal significance, such as declarations, guidelines, protocols, principles, policy declarations, codes of conduct, communications, and the like.<sup>276</sup> They are not enforceable in the traditional ways, but nevertheless have an impact and influence over state, or in this case, city, behavior.<sup>277</sup> UN General Assembly Resolutions are a classic example of international soft law (as made by nation-states); they are legally significant and can and often do influence state behavior, but they are not legally binding or enforceable in a court of law.<sup>278</sup> In contrast, hard law, in the international context, includes binding legal agreements, with the classic example being an international treaty, the primary source of IL.<sup>279</sup>

Hard law creates responsibilities and rights that are legally enforceable by authorized courts or tribunals, backed by a police or military force, and that impose real consequences (typically including fines, imprisonment, or obligatory corrective action).<sup>280</sup> Soft law, on the other hand, creates non-enforceable standards and norms and relies on the force of persuasion, reputation, and cooption (the same mechanisms through which soft power is exercised) to induce voluntary compliance.<sup>281</sup> Though soft law is often thought to be “vague,” “uncompelling,” and “weak,” the powerful fact remains: It is often followed.<sup>282</sup> According to a leading IL textbook, “states do in fact respect and rely on ‘soft law’ norms,” just as they comply with many hard law norms even when they know that enforcement is extremely unlikely.<sup>283</sup> In many cases, and especially at the international level, soft law norms transform or crystallize into hard law; this is how much of customary international law is formed. Much of international environmental law, for example,

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275. Blank, *supra* note 26, at 925.

276. Gregory Shaffer & Mark Pollack, *Hard vs. Soft Law: Alternatives, Complements, and Antagonists in International Governance*, 94 MINN. L. REV. 706 (2010).

277. Bryan Druzin, *Why Does Soft Law Have Any Power Anyway?*, 7 ASIAN J. INT’L L. 361 (2017).

278. Stephen M. Schwebel, *The Effect of Resolutions of the U.N. General Assembly on Customary International Law*, 73 AM. SOC’Y INT’L L. PROC. 301 (1979).

279. For the definition of a “treaty,” see Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331, 8 I.L.M. 679 (1969).

280. Shaffer & Pollack, *supra* note 276, at 724.

281. Druzin, *supra* note 276, at 366–70.

282. Prosper Weil, *Towards Relative Normativity in International Law*, 77 AM. J. INT’L L. 413, 414 (1983).

283. PUGH ET AL., *supra* note 35, at 34.

started out as ‘soft law’ norms, but, as time went on, global actors decided to embody those norms in formal international treaties, such as the Paris Climate Agreement.<sup>284</sup>

The hard versus soft law dichotomy,<sup>285</sup> when combined with the hard versus soft law distinction, can help to explain the rise of cities internationally in recent years despite their ongoing powerlessness from a formal international legal and political perspective. Hard and soft power are disconnected; one can exist without the other. For example, while North Korea’s hard power is high, it is lacking entirely in soft power, or the ability to change other states’ behavior through attraction to its values or policy objectives. Similarly, while America has traditionally been strong on both soft and hard power, some (including Joseph Nye himself) argue that in the Trump era, its soft power has plummeted.<sup>286</sup> While cities remain powerless from a hard power and hard law perspective, they have increasingly high levels of soft power, which they are using, in part, to adopt soft law instruments.

And having one increases the other. As cities’ soft power rises, the number of soft law instruments they wield also rises. Cities’ rising soft power and increasing use of soft law are demonstrated by their formidable role in a variety of multilateral agendas, events, committees and taskforces—including the UN’s New Urban Agenda;<sup>287</sup> the two Earth Summits in 1992 and 2002;<sup>288</sup> the UN Habitat conference in 1996 and every subsequent Habitat conference since; the annual Mayoral Forum on Human Mobility, Migration, and Development;<sup>289</sup> the World Assembly of Local and Regional Governments;<sup>290</sup> the Cities #WithRefugees Campaign;<sup>291</sup> the World Human Rights Cities Forum;<sup>292</sup> Local Agenda 21;<sup>293</sup> the UN Global Taskforce on

284. *Id.*

285. Note that this distinction is contested by some scholars. Legal positivists tend to deny the very concept of “soft” law since law, by definition, is “binding” in their view. For example, Jan Klabbers, a legal positivist, contends that law cannot be “more or less binding” and that the concept of soft law is logically flawed. See Jan Klabbers, *The Redundancy of Soft Law*, 65 *NORDIC J. INT’L L.* 167, 168–81 (1996) (advocating against retention of the “traditional binary conception of law”). Professor Prosper Weil makes a slightly different argument when he claims that the proliferation of “soft law” weakens the international legal system by blurring the line between law and nonlaw. See Weil, *supra* note 282, at 414–15.

286. Joseph Nye, *Donald Trump and the Decline of US Soft Power*, PROJECT SYNDICATE (Feb. 6, 2018), <https://www.project-syndicate.org/commentary/trump-american-soft-power-decline-by-joseph-s-nye-2018-02>.

287. *Supra* note 149.

288. United Nations Conference on Environment and Development, Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26/Rev.1 (Aug. 12, 1992); World Summit on Sustainable Development, Johannesburg Declaration on Sustainable Development, U.N. Doc. A/CONF/199/20 (Sept. 4, 2002).

289. *Supra* note 173.

290. *Supra* text accompanying notes 158–161.

291. *Supra* note 238.

292. The World Human Rights Cities Forum takes place annually. See UCLG, *The World Human Rights Cities Forum (WHRCF) of Gwangju, South Korea*, <https://www.uclg->

Local and Regional Governments;<sup>294</sup> and UNACLA.<sup>295</sup> Their rising soft power is also reflected in the multitude of legal-like agreements signed between cities and international organizations, or among globally dispersed cities themselves; examples include the Climate Energy Declaration;<sup>296</sup> the Mechelen Declaration on Cities and Migration;<sup>297</sup> the Aberdeen Agenda Principles on Good Practice for Local Democracy and Good Governance;<sup>298</sup> the Global Compact on Refugees;<sup>299</sup> Goal 11 of the Sustainable Development Goals;<sup>300</sup> and the Sendai Framework for Disaster Risk Reduction.<sup>301</sup>

### C. Updating Core IL and IR Terminology

The international arena is no longer the exclusive playground of nation-states, but instead is a crowded arena buzzing with a variety of non-state actors, some of which are governmental, some of which are private, and some of which defy both those categories. This arena can no longer accurately be characterized as “international,” or as governed by “international” law and the rules of “international” relations. The broader and more inclusive term *global* is much more accurate and appropriate. According to Janne Nijman, “we are facing a moment of foreign policy transformation: We are shifting from an international to a global society and in this process the city is rising as a key foreign policy actor.”<sup>302</sup> Global society, global governance, global relations, global law, global actors, global cities: These are the terms that make up the terminology of the twenty-first century. To remain aligned with

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[cisdp.org/en/activities/human-rights-cities/international-meetings/World-Human-Rights-Cities-Forum-of-Gwangju](https://cisdp.org/en/activities/human-rights-cities/international-meetings/World-Human-Rights-Cities-Forum-of-Gwangju) (last visited Apr. 25, 2020).

293. Local Agenda 21 is a global environmental and development program adopted by the UN Conference on the Environment and Development held in Rio de Janeiro in 1992. See UN Conf. on Env’t and Dev., *Agenda 21*, *supra* note 159.

294. GLOBAL TASKFORCE OF LOCAL AND REGIONAL GOVERNMENTS, <https://www.global-taskforce.org> (last visited Apr. 25, 2020).

295. *Supra* notes 122, 164–165.

296. CLIMATE ENERGY DECLARATION, Climate Emergency Declarations in 1,490 Jurisdictions and Local Governments Cover 822 Million Citizens (Apr. 23, 2020), <https://climateemergencydeclaration.org/climate-emergency-declarations-cover-15-million-citizens>; Flavie Halais, *Cities Race to Slow Climate Change—and Improve Life for All*, WIRED (Jan. 1, 2020), <https://www.wired.com/story/cities-climate-change-equity-paris-agreement>.

297. *Supra* note 194.

298. COMMONWEALTH LOCAL GOVERNMENT FORUM, *What We Do: The Aberdeen Agenda* (last visited Apr. 25, 2020), <https://www.clgf.org.uk/what-we-do/aberdeen-agenda>.

299. *Supra* note 176.

300. *Supra* text accompanying notes 123, 144, and 259.

301. World Conference on Disaster Risk Reduction, *Sendai Framework for Disaster Risk Reduction 2015–2030*, U.N. Doc. A/CONF.224/L.2 (Mar. 18, 2015).

302. Janne Nijman, *Renaissance of the City as Global Actor: The Role of Foreign Policy and International Law Practices in the Construction of Cities as Global Actors*, in *THE TRANSFORMATION OF FOREIGN POLICY: DRAWING AND MANAGING BOUNDARIES FROM ANTIQUITY TO THE PRESENT* 209, 236 (Andreas Fahrmeir et al. eds., 2016).

empirical realities, international lawyers and scholars of IR should start incorporating these terms into their vocabulary. Failure to do so will result in confusing conclusions like Frug and Barron's statement that cities' role in international politics is best characterized as a "combination of simultaneous empowerment and disempowerment."<sup>303</sup>

This struggle with language is reflected in the emerging literature on city diplomacy as well, which refers to cities' involvement in global politics as "Municipal Internationalism," "Paradiplomacy," the "International Municipal Movement," and the "Fourth Industrial Revolution,"<sup>304</sup> among others.<sup>305</sup> The emerging body of literature, which includes the current article, on city diplomacy fills in the gaps and provides the necessary updates where the "international local government law" literature leaves off. However, while interdisciplinary, analytically rigorous, and empirically rich, this newer body of research is largely not led by legal scholars, and it does not include any legal analysis. Instead, it falls at the intersection of urban planning and IR, neither of which tend to prioritize (and both of which often downplay or ignore), the legal dimensions of recent global urbanization trends. As such, while the city diplomacy literature lacks the legal analysis and insights characteristic of the earlier international local government law literature, the latter lacks the more up-to-date and empirically rigorous nature of the former. Together, however, these two bodies of literature—especially when combined with the legal literature on soft law and the political science literature on soft power,—present a much fuller and more robust portrayal of the status of cities in global governance today.

I call the nexus of these two fields "the urbanization of global relations." Building on the various bodies of applicable research that exist on cities, I propose a research agenda for this new field that encompasses the literature on global governance, city diplomacy, and city networking; international local government law; IL scholarship on soft versus hard law; and IR scholarship on soft versus hard power. To more fully develop this research agenda, the collective and interdisciplinary efforts of international lawyers, as well as scholars of IR, IL, and cities, will all be necessary. Only by reaching across our departmental aisles, interbreeding our ideas, and working collaboratively together can we fully understand the complex geo-legal-political landscape that now defines international governance.

Under our current conceptual framework—a world order built on the idea that nation-states are the sole international actors that matter, and that

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303. Frug & Barron, *supra* note 16, at 52, 61.

304. Muqtedar Khan, *Rethinking Collective Identity Through the Lenses of Al Farabi, Ibn Khaldun*, DAILY SABAH (May 1, 2019) <https://www.dailysabah.com/op-ed/2019/05/01/rethinking-collective-identity-through-the-lenses-of-al-farabi-ibn-khaldun> (stating that "there is a revolution in progress that is shifting responsibility for governance and sovereignty away from the state to cities. This revolution even has a name—the fourth industrial revolution").

305. Some of these labels originated in the Frug and Barron article from 2006, including "municipal foreign policy" and "the municipal foreign policy movement." Frug & Barron, *supra* note 16.

hard power and hard law are the primary determinants of international influence—cities appear formally powerless. Yet, when new concepts are embraced and new terminology employed, the status of cities looks entirely different.

Cities embody increased levels of soft power, which they've acquired in part by increasing their arsenal of soft law tools. They are forming into powerful large-scale networks, allying with well-connected international organizations, gaining seats on UN decision-making bodies, successfully lobbying for inclusion in multilateral agendas, mirroring state-based coalitions and events, and adopting their own body of global laws, which they use to hold each other accountable. They are participating in global, not international, politics, alongside an array of other non-state actors, and their voices, opinions, and needs are being heard. It is time to break out of the “conceptual jail” that IL and IR have imprisoned cities within, and to see global (not international) politics for what it is: a fuzzy and complex domain of states and non-state actors cooperating and competing together to shape global (not international) policies and to participate in global (not international) governance.<sup>306</sup>

## V. CONCLUSION

Cities are central to all current and projected global challenges and their centrality translates into increased assertiveness and influence at the global level.<sup>307</sup> Today, cities—not nation-states—are where the global wealth, global population, global trade, global innovations, and our great global threats can all be found; they produce over 80% of global GDP, release 75% of planet-warming emissions, and house 54% of the human population (and rising).<sup>308</sup> An increasing number of cities, like Tokyo and London, now boast economies larger than many G-20 countries.<sup>309</sup> New York City's GDP is larger than that of Spain or South Korea; Sao Paulo is wealthier than Argentina, Uruguay, Paraguay, and Bolivia combined; and Guangdong in Chi-

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306. ROSENAU, *supra* note 45, at 15–17; *see, e.g.*, Chan, *supra* note 1, at 138.

307. *See* Chan, *supra* note 1, at 153; Christopher O'Dea, *Global Housing: Going Up, and Up*, IPE REAL ASSETS (May/June 2019), <https://realassets.ipe.com/residential/global-housing-going-up-and-up/10030942.article>.

308. WORLD BANK, *Urban Development: An Overview* (Sept. 25, 2019), <https://www.worldbank.org/en/topic/urbandevelopment/overview>; Hachigian, *supra* note 2.

309. Rhomir Yanquiling, *These Huge US Cities Have Economies Larger Than Most Countries*, URBANIZEHUB (Apr. 4, 2018), <https://urbanizehub.com/these-huge-us-cities-have-economies-larger-than-most-countries>; *see* Jo Beall & David Adam, *Cities, Prosperity and Influence: The Role of City Diplomacy in Shaping Soft Power in the 21st Century 4* (BRITISH COUNCIL, March 2017); Leffel & Acuto, *supra* note 113, at 281–301. Many of the world's leading cities, such as New York, Tokyo, London, Paris, and Seoul, now have economies larger than many nations. *See* Yanquiling. But some little-known cities will soon have economies larger than many well-known nations too, such as Tianjin in China, which by 2025 will surpass Sweden's GDP. *See* Beall & Adam, at 4.

na is richer than either Russia or Mexico.<sup>310</sup> Despite occupying less than 3% of the earth's surface, the majority (and soon the vast majority) of the world's population, including nearly all refugees and migrants, reside in the world's geographically miniscule urban areas. By 2050, nearly 70% of all people will live in cities,<sup>311</sup> and by 2030 there will be over forty megacities.<sup>312</sup> Given these startling statistics, it is no wonder that some are referring to the current era as the "age of urbanization,"<sup>313</sup> the "century of cities,"<sup>314</sup> and the "urban millennium."<sup>315</sup> A "Localist Revolution," as it's also been described, is indeed underway, and this revolution is metamorphosing our global institutions of governance and law in unprecedented new ways. Consequently, we need a new way of thinking and talking about our global—no longer international—relations.<sup>316</sup>

As legal scholar Anne-Marie Slaughter declared nearly fifteen years ago, and as iconic city scholar Benjamin Barber confirmed more recently,<sup>317</sup> a "new world order," is emerging in which non-state actors, including sub-national actors, are taking on more influential and assertive roles on the world stage.<sup>318</sup> The nation-state, according to Slaughter, Barber, and now

310. Tavares, *supra* note 145.

311. UN Dep't of Econ. and Soc. Affairs, *2018 Revision of World Urbanization Prospects* (May 16, 2016), <https://www.un.org/development/desa/publications/2018-revision-of-world-urbanization-prospects.html>. In many regions, including North America, Latin America, and the Caribbean, over 80% of people already reside in urban areas, and while Africa remains the only continent where this figure remains under 50%, African, in addition to Asian, countries are expected to rapidly urbanize in the coming decades, extending the global urbanization trend to all regions of the world. *Id.*

312. There are currently thirty-seven megacities in the world. Sharon Omondi, *What Is a Megacity?*, *WORLDATLAS* (June 28, 2018), <https://www.worldatlas.com/articles/what-is-a-megacity.html>; U.N. Dep't of Econ. & Soc. Affairs, *World Urbanization Prospects: The 2018 Revision*, at 11, U.N. Doc. ST/ESA/SER.A/420 (2019).

313. Pascal Mittermaier, *Cities and Nature in the Age of Urbanization*, *HUFFPOST* (Dec. 6, 2017), [https://www.huffpost.com/entry/cities-and-nature-in-the-\\_b\\_10740884](https://www.huffpost.com/entry/cities-and-nature-in-the-_b_10740884).

314. Paul Swinney & Eli Thomas, *A Century of Cities: Urban Economic Change Since 1911*, *CENTRE FOR CITIES*, 3–5 (2015), <https://www.centreforcities.org/wp-content/uploads/2015/03/15-03-04-A-Century-of-Cities.pdf>.

315. Press Release, Secretary-General, 'Future of Humanity Lies in Cities', Secretary-General Tells Moscow Conference on Urban Development, UN Press Release SG/SM/8261 (June 5, 2002) (quoting Kofi Anan as stating that the "world has entered the urban millennium.").

316. See David Brooks, *The Localist Revolution*, *N.Y. TIMES* (June 19, 2018), <https://www.nytimes.com/2018/07/19/opinion/national-politics-localism-populism.html>.

317. BENJAMIN BARBER, *IF MAYORS RULED THE WORLD: DYSFUNCTIONAL NATIONS, RISING CITIES* 336–61 (2013).

318. See generally Slaughter, *supra* note 19. Note that while cities do not feature in Slaughter's argument that a new world order has arisen (instead, she focuses primarily on non-governmental sub-state actors), her theory of the "disaggregated state"—and the rise of sub-national actors at the international level—maps perfectly onto the rise of cities, which seems to coincide with the rise in influence of non-governmental actors. See *id.*, at 325. For an analysis of Slaughter's argument, see Frug & Barron, *supra* note 16, at 23–24. According to

others, has begun to disaggregate into sub-component parts, which are now rising up, pushing ahead, and in many cases, leaping over the world's historic Leviathans, to join forces with other non-state actors and stake out their own policy positions at the global level.<sup>319</sup> Among these new actors are local governments, the so-called “invisible gorillas of international studies,”<sup>320</sup> which play an “essential role in developing and implementing actions and driving ambition,”<sup>321</sup> and where, according to certain international experts, the “future of humanity” lies.<sup>322</sup> Some have even gone so far as to claim that cities are taking the lead and even supplanting national governments when it comes to solving our critical twenty-first century global challenges.<sup>323</sup> That claim that has increased resonance in an era when states seem increasingly incapable of reaching an agreement on some of our most basic and glaring challenges, such as climate change. As former Mayor and Chair of the C40, Michael Bloomberg, famously tweeted in 2013, “while nations talk, cities act.”<sup>324</sup> Even the UN itself, the primary international organization overseeing global governance, conceded shortly after the turn of the twenty-first century that “humanity’s future is decidedly urban.”<sup>325</sup> While we tend to focus on globalization and digitization as the key trends of the twenty-first century, those trends are primarily realized through the overarching trend of our times: urbanization.

New concepts, paradigms, and conceptual frameworks are needed to understand this new reality. Old terms, such as international relations, international law, international organizations, which carry the word “nation” within them are starting to sound out-of-touch and anachronistic in an era when global governance involves a multitude of actors involved in a variety of activities traditionally performed only by states. The concepts of soft law, soft power, global law, and global relations, while just a start, will put us on the path of better understanding how cities can remain both formally power-

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Frug and Barron, “cities are involved in the very kinds of networks that Slaughter describes.” *Id.* at 24.

319. See Chan, *supra* note 1, at 2; Charles Hermann, Book Note, 85 AM. POL. SCI. REV. 1081 (1991) (reviewing JAMES ROSENAU, *TURBULENCE IN WORLD POLITICS: A THEORY OF CHANGE AND CONTINUITY* (1990)). See generally SOFIE BOUTELIGIER, *CITIES, NETWORKS, AND GLOBAL ENVIRONMENTAL GOVERNANCE: SPACES OF INNOVATION, PLACES OF LEADERSHIP* (2012); Oomen & Baumgärtel, *supra* note 5, at 608.

320. MICHELE ACUTO, *GLOBAL CITIES, GOVERNANCE AND DIPLOMACY: THE URBAN LINK 1* (2013).

321. Nijman, *supra* note 302, at 236.

322. UN Press Release, Secretary-General, ‘Future of Humanity Lies in Cities’, *supra* note 315.

323. See John Bunzl, Book Review (Apr. 2013), [https://www.simpol.org/fileadmin/user\\_upload/Articles/Divided\\_Nations\\_book\\_review.pdf](https://www.simpol.org/fileadmin/user_upload/Articles/Divided_Nations_book_review.pdf) (reviewing IAN GOLDIN, *DIVIDED NATIONS: WHY GLOBAL GOVERNANCE IS FAILING, AND WHAT WE CAN DO ABOUT IT* (2013)).

324. Mike Bloomberg (@MikeBloomberg), TWITTER (Sept. 4, 2013, 12:55 PM), <https://twitter.com/mikebloomberg/status/375346397870313473>.

325. *Global Campaign on Urban Governance Concept Paper*, *supra* note 81, at 6–7.

less under the current international legal regime, yet informally influential, and increasingly so, in a global political arena defined by a diffusion of actors and power.<sup>326</sup> Cities, through their use of soft law instruments, savvy strategies, and influential alliances, are acquiring more and more soft power in the global sphere, allowing them to contribute not only to the implementation and enforcement of global agendas and IL, but also to contribute to their very formation.

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326. Swiney & Foster, *Cities Are Rising in Influence and Power on the Global Stage*, *supra* note 2.