

If human rights are not defended locally, how will they ever be realized?

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A city that celebrates the 400th anniversary of its Great Council, once the symbol of justice in the widest surroundings. A city willing to weave this legacy together with the darkest spot in its history; its role in collecting Belgian Jews and Roma before they were deported. A city with the guts to dedicate a three-year festival to Law and Justice, proven right by full attendance halls. A city, finally, with a mayor labelled World Mayor 2016 because of his openness towards refugees, and his dedication to making Mechelen an inclusive city.

What better setting to discuss the challenges to human rights these days, the global rise of human rights cities, the relevance of human rights – as law, discourse and practice – to a city like Mechelen and ways in which to act upon such reflections? Let me, therefore, combine the reflections that I shared in the working group *Are cities the states of the future?* with questions asked and thoughts shared during the highly inspiring European Forum as a whole.

Human rights in times of turbulence

These days, dedicating a two-day forum to the topic of human rights could be considered a sign of braveness. Human rights, also in the Western world, hardly have the revered status of indisputable moral standards that they might once have had. They stand uneasily with our turbulent times, characterized by a rise of populism, by seeking belonging in xenophobia, by a crumbling of institutions.

Let's briefly investigate each of these three factors. One observation voiced over and over again during the two days was how populism can easily become a tyranny of the majority. The forum coincided with public reflections on the first 100 days of Donald Trump's presidency – used to clamp down on undocumented migrants and Muslims, by executive order, and in the name of the American people. It took place

in the days when Erdogan, emboldened to do so by the majority of the Turkish people, arrested 1000 people and suspended 9000 police in a new crackdown on people with alternative viewpoints. It also coincided with populist extreme-right wing politician Marine le Pen gaining 22.6% of the French vote, only 0.7 % less than Macron, on a ticket of anti-immigration and limiting social rights to the French only. The tension with human rights is clear. Here, of course, a key characteristic is that of protecting all individuals, including minorities and the most vulnerable, against the majority of the day.

All these populist successes can partially be explained by a deep need for belonging. Globalization, in all its manifestations, has created a profound sense of alienation and a need for rootedness and for belonging. Such a search for belonging all too often manifests itself as xenophobia, a revival of nationalism, exclusionist policies. Here's another contrast with a key characteristic of human rights – their premise of universal, inalienable, indivisible rights belonging to each and every human being. The underlying vision of cosmopolitanism, and common humanity, of a higher order than that of the nation states, stands uneasily with the Blut-und-Boden (blood-and-soil) rhetoric that has, possibly surprisingly, resurged in our times.

And then there is the demise of institutions. Institutions like the judiciary, the press and civil society. One of the judges present lamented how the British Daily News depicted the judges that blocked Brexit as enemies of the people, and how the newspaper openly discussed the sexual orientation of one of the judges. One of the journalists present came out of one workshop sighing that it was 'another session of blaming the press for everything'. In our session, the ability of Belgian civil society to truly represent the public interest, and not merely that of the organizations concerned, was openly questioned. Meanwhile, in wider Europe, the Hungarian parliament was limiting the freedom of NGO's on a daily basis, and in Italy a discussion had started on the credentials and funding of civil society organizations saving the lives of refugees on the Mediterranean. All these institutions are exactly the ones relied upon by human rights. Without relentless civil society action the Universal Declaration of Human Rights would not have been passed in 1948, nor travelled much further than the UN General Assembly. Without a free press, human rights abuses worldwide would have remained unreported. Without independent judges, the rights concerned would never have been enforced.

To be honest, however, the problem does not only lie within our times, but also with human rights – as law, as a discourse, and as practice. Human rights are law. In the past seventy years, the visionary Universal Declaration has been turned into a system of binding treaties, enforcement mechanisms and national human rights institutions. It could well be that in the process rights have become too legal, too technical, too detached. The binary legal language of individuals as rights holders, and the state as duty bearer, also obscures the responsibility held



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by each of us. In our workshop, we discussed how Mahatma Gandhi responded to a call for input into the Universal Declaration by emphasizing the need to first set out the Duties of Men, a philosophy that – in a watered down version – was only briefly mentioned in one of the last articles of the Declaration. Connecting the responsibility for rights realization to the state alone could well be one of the historical failures of the rights movement – if only because of the fact that States are also often the largest violators of human rights. To offer another perspective, this legal force of human rights can also help to explain the backlash against rights in our societies these days. It is precisely because of the hard legal restrictions that human rights put to, for instance, strict immigration policies, that we see a human rights backlash in those Western countries that once saw human rights as a mere export product, a concern of foreign policy.

Even if people all over the world still struggle under the banner of human rights, and gain inspiration from the promises offered, the question is whether this is also the case in these Western countries. ‘Who, if you would go down the streets of Mechelen and ask around, would know about human rights?’ a participant in our workshop asked. Human rights, like liberty in the famous quote by judge Learned Hand, lie in ‘the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it’. A Dutch scholar once recalled how the Universal Declaration could be considered a present that his society had forgotten to unpack.

The biggest failure of human rights, described in books like *The Endtimes of Human Rights* and *The Last Utopia* is, however, their inability to deliver on their promises. As the civil, political, social, economic and cultural rights of each individual, and of specific groups like children, women, racial minorities and the disabled were agreed upon in the United Nations and Europe with increasing precision and detail, these rights continued to be violated – in countries far away but also close to home. It is here that the promise of human rights cities comes in.

The promise of human rights cities

So what, participants asked me a number of times, is a human rights city? In our book on *Global Urban Justice: the rise of human rights cities*, Michele Grigolo, Martha Davis and I considered all cities that explicitly engage with and try to realize international human rights. These can be the cities that work with the NGO PDHRE (People’s Decade on Human Rights Education) that in 1997 in Rosario, Argentina, started a movement in which the mayor and NGOs signed a proclamation seeking to further human rights at the local level, making it the first human rights city. The concept can refer to the hundreds of cities that attend the yearly World Forum on Human Rights Cities Forum in Kwangju, South-Korea. It refers to those cities that have signed the *European Charter for the Safeguarding of Human Rights in the City*, with a number of

well-developed European human rights cities as leaders. Barcelona, for instance, that has called itself a human rights city nearly twenty years ago, and has a special human rights office. Or Graz, in Austria, that has a human rights council and writes biannual human rights reports. Utrecht would be another example, because of the way in which it bases policies in fields ranging from privacy and gay rights to the homeless and undocumented migrants on international treaties. Some cities focus on one particular human rights issues, like the work of New York and San Francisco in the field of women's rights, of Chicago regarding the rights of the Child, or the cities in the Dutch coalition for inclusion concerning the rights of people living with disabilities.

There is, I tried to explain, no label of human rights city that can be obtained anywhere - even if there is talk of something of the kind. What is there, however, are more and more cities engaging with human rights, and a clear interest by the international community in these processes. In 2015, the UN called for guiding principles on local government and human rights. The Council of Europe has, for years, worked in explaining the role of local authorities in furthering human rights and developing indicators in this field. It is not a coincidence that the International Organization for Migration invited the mayor of Mechelen to offer advice for the new Global Compact on Migration.

The reasons for this rise of human rights cities are manifold. Many of them have been put forward by Benjamin Barber, who sadly passed away in the week of the forum. He talked about the inability of nation states to address the major problems of our times, ranging from climate change to people fleeing war, and compared that to the pragmatic politics that characterize local government.

More and more people live in cities, and these cities have more and more responsibilities related directly to human rights – from housing and education to public order and equal treatment. In addition, the increased diversity of cities calls for a moral language acceptable to all, like the human rights described by Michael Ignatieff as the global moral *lingua franca*. The city campaign of the city of Amsterdam, with people of all colours and creeds holding up the sign I AMsterdam, is an example of how it is explicit recognition, and even appreciation, of diversity that characterizes many modern and successful cities.

The real litmus test to the human rights commitment of cities is the degree to which they are prepared to welcome and integrate people forced to leave their homes far away. In Belgium, Mechelen was the only city to explicitly ask for more refugees, but such Cities of Refuge can be found all throughout Europe. Networks like Eurocities, Cities of Sanctuary, Shelter cities and Solidacities allow them to exchange experiences. This is important as, in the words of the mayor of Barcelona, 'where states provide asylum, cities provide shelter'. Cities often go much further, and can do much more, than national governments. This also applies where it concerns undocumented migrants who might not



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have a right to asylum, but are human beings in need of shelter and food. In the Netherlands, cities like Utrecht, the Hague, Amsterdam and Groningen continue to offer such migrants “bed, bath and bread” in spite of threats of sanctions by the national government. This “city disobedience” is one way of furthering the human rights of people who, in the words of Hannah Arendt, have nothing but their bare humanity.

My fascination with this topic starts with my perspective as a lawyer. I feel that it is important to set out the formal legal status of local authorities under international human rights law – a field that classically thinks of the world in terms of sovereign states only. Navi Pillay succinctly summarized the UN perspective over dinner, stating that ‘if states ratify human rights treaties, all their authorities are bound to these treaties’. But to what extent can local authorities invoke these treaties to secure human rights promised, but not delivered, by national governments? It’s a new discussion, and more important than ever. A next question is whether adopting an identity like “human rights city” actually makes a difference for the most vulnerable within a local authority. We see evidence that such an identity, if it is shared by a wide range of local stakeholders, and truly institutionalized, can make a difference in terms of social justice when push comes to shove. For this, however, it is important that local authorities overcome their reluctance to “talk rights”.

Talking human rights in the city

Dreams of a more inclusive, just city can be narrated in many different ways. One “enthusiastic Mechelaar” in our workshop felt that Mechelen should become Belgium’s first human rights city, and discussed this with the mayor during the Wanderlust event in the evening. Would it not be better, Bart Somers wondered, to speak of a “just city” (rechtvaardige stad) instead of “human rights city”? The same hesitation was expressed by the committed member of Flemish parliament, Yasmine Kherbache, with her background as a human rights lawyer. ‘The moment I invoke human rights, it seems to cause more irritation than it does any good.’ It’s the same kind of reluctance towards the language of human rights that caused York, in the United Kingdom, to rename its Human Rights Commission into a Fairness Commission.

Still, there are many reasons to become a human rights city, especially for a town like Mechelen, and to explicitly take human rights as a normative basis for urban policies. The first was invoked by Yasmine, who, in quoting Eleanor Roosevelt, described human rights as a bridge upon which we can meet and talk. The very fact that human rights treaties come out of intense negotiations with countries and people from all over the world means that they contain norms acceptable in cultures and traditions worldwide, and can function as a normative baseline for diverse societies. Human rights might not be perfect, but they are the closest form of moral agreement that humanity as a whole has managed to reach to date.

Additionally, their legal character, that invokes fears of judicialization and a culture of claims, is also a strong point. Human rights have long moved from paper promises, and “nonsense on stilts” to a full-fledged set of laws that people can, and do, invoke vis-à-vis the authorities. Indeed, this can at times lead to painful clashes with the powers that be, and even with the popular consensus, but their underlying objective of guaranteeing equality and protection for the human dignity of every human being justifies this. The fact that these rights have been interpreted by courts, with their limits made explicit, and the balance between them tested in a variety of cases, also means that they can become instrumental in making difficult policy decisions at the local level.

Next, as mayor Somers forcefully put forward in defending his policies, ‘we owe it to tradition’. Not the imperialistic, self-righteous tradition of exporting human rights all over the world, but the tradition of humanism, institutionalized in places like the Great Council of Mechelen, voiced in writings of people like Erasmus (who had a connection with Mechelen), a tradition of celebrating diversity and seeing its added value that spans centuries. It’s a tradition that is as much part of Belgian, and Dutch, identity as what is invoked as such these days, and one in dire need of protection.

Finally, if human rights are not defended locally, if there is a reluctance to stand up for them in concrete cases and specific places, how will they ever be realized? Eleanor Roosevelt (again) famously commented how human rights, without meaning in small places, will not acquire meaning anywhere. These days of polarization, populism and xenophobia might threaten the institutions that protect human rights, but also call for human rights leadership. While populism thrives by the acts and discourses of “big men” (and women, like Marine Le Pen), human rights need inspiring people standing up for them and for the people these rights are meant to protect.

Of course, the lofty language of rights requires translation into concrete situations, to bring them in tune with traditions and resonate with lived examples and experiences, to reach the hearts and minds of all who can come to their protection. This, then, is the work of human rights coalitions.

Acting upon human rights ambitions

My father is a medical doctor who works as a volunteer for Amnesty International. In his more cynical moods, though, he often moans that ‘human rights acts are rights that do not act’. Human rights, as Geert Mak recalled during the closing session, can only be realized through struggle, or at least on the basis of determination and concerted action. Our research shows how all successful human rights cities rely on both the institutionalization of human rights ambitions and the formation of human rights coalitions. Such coalitions need to involve local authorities, civil society, businesses and churches, but also individual citizens.

In our working group we spoke at length about each pillar in the triangle government-civil society-citizens. No doubt, visionary politicians are needed to formulate rights ambitions and create support for them. But empowered civil servants can be just as important in making sure that these ambitions lead to a long-term improvement at the local society level. The problem we often encounter, is the lack of knowledge about human rights at the local level. Human rights education can make a difference, especially if it is tailored specifically towards local challenges – like beggars working in gangs, requests for permission to hold extreme right demonstrations, or homeless people in the city center.

Civil society might always have been the main driver behind human rights achievements, but it is clear that NGO's face huge challenges both in the field of legitimacy and capacity – in Belgium as well as elsewhere. They need to be taken seriously as partners by the local government. A specific focus on human rights, additionally, can strengthen their legitimacy, help create focus and serve to unite disparate constituencies.

But discussions on the legitimacy of NGOs also call for direct involvement of the people. Fickle and volatile as the public at large may seem, it is clear that individuals are ready and willing to contribute to improving the rights of others. The campaign *Let's bring them here* is an example, in which hundreds of Dutch citizens offered to drive to Greece to physically bring refugees North, thus helping the Netherlands to realize its relocation promises. Involving (young) people and invoking individual responsibility is a key challenge, but the participants in the forum were great examples of how many people are committed to improving human rights in their direct surroundings.

Conclusion

The rise of populism combined with xenophobia and exclusionist policies calls for counter-narratives and developing bottom up partnerships between all stakeholders. Human rights should be at the core of such counter-narratives, as they strengthen inclusion whilst also ensuring attention for the most vulnerable in society. These human rights have come to rely more and more on local actors for their realization. Mechelen clearly has the history, population and leadership to join the ranks of those cities pioneering as human rights cities. This became overtly clear during the toast that mayor Somers made during the final dinner. He could have easily toasted to a great, vibrant conference with true dialogue, or to a beautiful city that seeks to assume its legacy to address the most pressing challenges of our times. Instead, he raised his glass, offering a toast 'to humanity'.

Mechelen, 26 april 2017