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### **Policy Implications**

Cities should continue to promote their image as cosmopolitan actors in the global system by reinforcing joint network activities with private actors, civil society actors, philanthropic foundations and national governments to find local solutions to the global challenge of climate change.

In shaping the transnational law of environmental rights cities should lead by example and implement ambitious GHG reduction targets and develop far-reaching tools, standards and methodologies to harmonise climate action in cities worldwide.

In the implementation of the Paris Agreement, national governments should rely on cities and their governance networks as natural partners.

Heads of state and government should create better channels of communication with mayors and representatives of major city networks such as ICLEI, C40 or the Compact of Mayors.

### **Abstract**

Today, many human rights norms are promoted and reinforced as transnational law in transnational settings involving a multiplicity of state and non-state actors. Over the last few years, debates about constitutionalising a human right to an adequate environment as a legal instrument to confront the devastating consequences of climate change have steadily grown. While the role of states and non-state actors from civil society in promoting human rights legislation is widely acknowledged, the role of cities remains largely unexplored. Cities are major greenhouse gas emitters, profoundly affected by the various consequences of climate change, with more than half of the world population living in urban environments. By providing a brief overview of the principal activities of the largest city networks on climate action, ICLEI - Local Governments for Sustainability and the C40 Climate Action Leadership Group - , the article argues that cities have turned into crucial actors in shaping and promoting environmental rights, essentially a human right to an adequate environment.

## **Cities – the cosmopolitan actors of the global system**

Do cities play a role in shaping environmental rights as transnational law? Cities determine our lives and our lifestyle, the way we think and the way we act. Fifty-four percent of the world population, expected to increase to 66 percent by 2050, lives in cities or urban areas (UN 2014, p. 1). The most urbanised regions are Northern America (82 percent), Latin America and the Caribbean (80 percent) and Europe (73 percent), while China and India will be responsible for more than one-third of the growth of the worldwide urban population by 2050 (UN 2014, p. 1, p. 12). Cities have always been centres of commerce and politics, technology and innovation, places where new ideas emerge, new lifestyles develop, and new trends manifest themselves.

Scholars like Saskia Sassen have portrayed the global city as a critical site of information exchange in the globalised and interconnected world (Sassen 1991, 2002 and 2005). Smith and Timberlake defined the world's great cities as 'crucial nodes in the global political economy' (Smith and Timberlake 2002, 117). For Curtis, cities 'are linked together through the creation of a selectively sited digital infrastructure [...] comparable to the construction of the railways, mass transit systems and motorways of previous periods' (Curtis 2010, pp. 4-5). Cities are 'ongoing processes, comprised of various flows' (Curtis 2010, p. 10) wielding significant power.

What is more, over the last few decades cities have built up a multiplicity of worldwide networks to better coordinate their actions and together tackle challenges and problems of a global scale. Networks like United Cities and Local Governments (UCLG) or ICLEI - Local Governments for Sustainability engage in joint activities to make cities and local governments around the world more sustainable. The Fast-Track Cities Initiative brings together cities from all around the world to tackle HIV/AIDS in urban areas. The EU Committee of the Regions is the major body in the EU for European local governments to make their interests and needs to be heard in the wider institutional framework of the EU. The National League of Cities represents towns and municipalities in the US and supports these cities to build better communities. As a platform for mayors of US towns and cities to share ideas and exchange knowledge, the US Conference of Mayors promotes urban and suburban policies. And so the list goes on almost indefinitely.

Today, inter-city networks of national, transnational or even planetary dimensions with the aim to share knowledge, exchange ideas and jointly tackle a variety of highly challenging development challenges flourish and thrive in an unprecedented way. Parag Khanna claims that this extraordinary connectivity of cities all over the planet is virtually changing the map of our

world, turning inter-city connectivity beyond national borders into a new paradigm of our age (Khanna 2016). Benjamin Barber even argues that mayors should become the prime actors in tackling global challenges in the face of dysfunctional nation-states and the unprecedented connectivity of the megacities in this world (Barber 2014).

When considering this extraordinary vibrancy, dynamism and transnational connectivity of cities all around the globe to confront development problems of a global scale, it is surprising that in the literature on IR and global governance cities are still largely treated as minor actors. Although the literature on the networked activities of global cities has proliferated over the last decade, IR scholars have mostly ignored the importance of global cities in the contemporary global governance structures (Curtis 2010, p. 1). Some scholars have explored the network power of cities and megacity-networks (Acuto 2010 and 2013a, b; Gordon 2013; Taylor 2005), while very few scholars have examined cities' contribution to the development of transnational law (Blank 2006). Today, many human rights frameworks emerge in transnational settings involving multiple state and non-state actors at different places of governance. These transnational governance frameworks can 'bind and bend the will of sovereign nations', undermining the Westphalian state system (Benhabib 2006, p. 16). Given the involvement of many different state and non-state actors in its development, transnational law has the potential to contribute to tackling global challenges.

In the emergence of transnational law, scholars have dominantly discussed the new role of civil society actors, the diminishing influence of the state and the hollowing out of one of the central premises of the Westphalian order, that is, the sovereignty of the state. At the same time, there has been almost complete silence on the role of cities and city networks in the development of transnational law. Curtis, however, clearly emphasises that global cities play a fundamental role in the 'complex rescaling, reorganisation and re-territorialisation of the state' (Curtis 2010, p. 18) in the globalised world.

This article looks more closely at the role cities can play in shaping transnational law by concentrating on the example of climate change. First, the article gives a brief characterisation of transnational law. Thereafter, I shed more light on the emergence of the human right to an adequate environment as transnational law. Then, I present the two leading city-networks in tackling climate change, ICLEI – Local Governments for Sustainability and the C40 network, examining how these initiatives contribute to the emergence of the human right to an adequate environment as transnational law.

## **Transnational law and the human right to an adequate environment**

The term ‘transnational law’ was already introduced in 1956 by Philip C. Jessup in his Storrs Lectures at Yale University to come to terms with legal and political developments which put into question the use of terms such as ‘international’ or ‘international law’. Jessup argued that states, international law and inter-state relations were not the only possibilities to organise the world or solve existing world problems. Jessup used the term transnational law ‘to include all law which regulates actions or events that transcend national frontiers’ (Jessup 1956, p. 2). He further explained that ‘[b]oth public and private international law are included, as are other rules which do not wholly fit into such categories’ (Jessup 1956, p. 2). Defined as an overarching principle encompassing different kinds of laws and activities by state and non-state actors, ‘[t]his transnational law would address the universality of human problems, that is, issues whose scope extends beyond one’s own nation’ (emphasis in the original) (Domingo 2010, p. 38). When thinking about the ‘universality of human problems’, Jessup did not necessarily have in mind global development challenges such as climate change or global health epidemics. Instead, he referred to commonplace examples of a legal and political nature.

Transnational situations, then, may involve individuals, corporations, states, organizations of states, or other groups. A private American citizen [...] whose passport or other travel document is challenged at a European frontier confronts a transnational situation. So does an American oil company doing business in Venezuela; or the New York lawyer who retains French counsel to advise on the settlement of his client’s estate in France; or the United States Government when negotiating with the Soviet Union regarding the unification of Germany. (Jessup 1956, p. 3-4)

In our polycentric, fragmented and multi-level global governance system, which is actively governed by a multiplicity of state and non-state actors, interacting at various sites of governance, transnational law has become a defining feature of how to tackle global challenges. No state or intergovernmental organisation alone has the power to find sustainable and long-term solutions to those transnational challenges which affect humanity as a whole. The new realities at the beginning of the 21<sup>st</sup> century have seriously challenged the intergovernmental approach, established by the Westphalian Treaty in 1648 and virtually undisputed until the end of the 20<sup>th</sup> century. The economic, political, social and cultural processes of globalisation after the Second World War, amounting to a profoundly interconnected and interdependent world, have made it an urgent necessity to create transnational and global governance models and frameworks. This necessity is additionally highlighted by the fact that the international system

of nation-states is largely overburdened when it comes to tackling global challenges such as climate change (Held 2006; Victor 2011).

Especially since the 1990s, the global system has increasingly created a variety of opportunities for non-state actors to exercise influence and contribute to the formation of international law and international norms, which eventually resulted in the emergence of transnational legal and political structures (Florini 2000; Risse et al. 1999 and 2013; Kjaer 2014). The creation of the International Criminal Court, a landmark event in the evolution of international law, would have been unimaginable without the decisive role of civil society actors and their transnational campaign and networking efforts (Glasius 2007). Similarly, the final adoption of the Mine Ban Treaty in 1997 or the Arms Trade Treaty in 2013 can also be credited to the tireless networking efforts of non-state actors from civil society (Price 1998; Bolton et al. 2014; Whall and Pytlak 2014). The crucial role of non-state actors in advancing international law through transnational networks is not only visible on particular occasions but throughout entire sectors of global governance. Several studies have shown that in global health governance, for instance, a multiplicity of state and non-state actors contributed through their activities at various sites of governance to the emergence of new transnational legal and political mechanisms, promoting the human right to health and the human right to access to medicines (Hein and Moon 2013; Fraundorfer 2016).

Consequently, due to its involvement of states, civil society actors, philanthropic foundations, international organisations and local communities in its promotion, the human right to health can be regarded as transnational law, contributing to tackling global health challenges. Similarly, the progressive realisation of the human right to food in the global governance of food security is increasingly promoted in transnational settings involving states and civil society actors, social movements and advocacy networks side by side in the development and adoption of new principles, frameworks and guidelines (Duncan 2015; Fraundorfer 2015).

In other words, human rights treaties and conventions, international norms and laws are increasingly created and realised at different sites of governance involving a variety of different actors, networks and movements, be they states, civil society actors, companies or individual experts. In Isiksel's words, 'the novelty of the contemporary legal landscape drives in part from the fact that certain regimes and institutions at the sub-, supra-, and transnational levels can create new obligations, rights, and duties that bind states, individuals and other actors even in the absence of hierarchically ordered means of enforcement' (Isiksel 2012, p. 169). While it has been widely recognised that non-state actors from civil society or the private sector have

become essential actors in shaping transnational law, much less is known about the potential of cities. Yishai Blank characterises cities, or localities, as ‘active agents with legally defined powers, mediating between the world and the state, between individuals and their state, and between communities and the world’ (Blank 2006, p. 891 – 892). He further maintains that cities increasingly become influential actors in the global system by (1) assuming international rights, duties and powers, (2) becoming objects of international and transnational regulation, (3) locally enforcing norms and standards and (4) forming global networks (Blank 2006, p. 892 - 924).

In global climate governance, states continue to dominate the international decision-making processes. The international climate negotiations, in the form of the UN Framework Convention on Climate Change (UNFCCC), have repeatedly demonstrated that the states lack the political will to develop effective, sustainable and long-term solutions to climate change. Although the states finally reached a breakthrough in the international climate negotiations in December 2015 with the Paris Agreement, it remains to be seen how the states are going to implement the lofty promises made in this non-binding climate treaty. In this context, the promotion and enforcement of a human right to an adequate environment as transnational law can be particularly relevant in dynamising implementation efforts.

In climate governance, scholars have repeatedly pondered on the possibilities of constitutionalising and implementing environmental rights as a means to guarantee the protection of the environment at the highest political level (Boyle 2012; Hayward 2005; Hiskes 2009; May 2006; Lewis 2012; May and Daly 2013 and 2014). Since climate change can be regarded as the greatest challenge humankind has to confront in the 21<sup>st</sup> century, questions about constitutionalising environmental rights can no longer be ignored. Tim Hayward, for instance, suggested constitutionalising a ‘right to an environment adequate for (human) health and wellbeing’, involving ‘the promotion of a certain level of environmental quality’ (Hayward 2005, p. 29). He derives the content of this human right from the draft principles of the UN Sub-Commission on Human Rights and the Environment of 1994, which enumerates several elements such as freedom from pollution (air, soil, water, etc.), environmental degradation, food and water security, conservation of nature and natural resources, etc. (Hayward 2005, pp. 29-30).

To limit the scope of this human right, Bridget Lewis argues that ‘environmental degradation per se would be a violation of human rights’ (Lewis 2012, p. 40). Hayward concedes that the human right to an adequate environment (HRAE) would most practically be applied to tackling issues such as ‘pollution, waste disposal, and other sorts of toxic

contamination, since the most immediate threats to health and wellbeing concern contamination of air, water, and food' (Hayward 2005, p. 31). Given the severe consequences of climate change for the lives of human beings worldwide, the HRAE would protect human interests of paramount moral importance (Hayward 2005, pp. 47-48; Lewis 2012). Since rights imply duties, the HRAE would also mean a universal duty of all human beings to 'refrain from harming the environment of each other' (Hayward 2005, p. 49). The key question, then, is how such a human right can be practically implemented and enforced, which makes the states with their power to codify human rights in domestic and international law the obvious candidates.

While the UN Declaration on Human Rights and the European Convention on Human Rights do not mention the HRAE, it has appeared since the 1970s with more frequency in non-binding international documents (Boyle 2012; Hayward 2005; Hiskes 2009; Lewis 2012, May and Daly 2015). The Stockholm Declaration, adopted at the UN Conference on the Human Environment in 1972, states in Principle 1 that '[m]an has the fundamental right to [...] adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations' (Declaration of the United Nations Conference on the Human Environment 1972). Other subsequent, non-binding declarations with a similar wording include the African Charter of Human and Peoples' Rights of 1981, the Brundtland Report of 1987, the Additional Protocol of 1989 to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) of 1969 and the UN Convention on the Rights of the Child, adopted in 1989 (Hayward 2005, pp. 54-56). A more recent example refers to the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, adopted in 2012 by the FAO member states, which in the context of tenure governance implicitly emphasise the responsibility of the states to protect the environment. The FAO Voluntary Guidelines are quite original in stressing that states need to cooperate with local communities and, in general, all those people affected by the consequences of climate change to mitigate the consequences of climate change (FAO 2012, articles 23.2 and 23.3). The Voluntary Guidelines are, as the other policy documents, legally non-binding and do not present any legal obligation to the states. The Aarhus Convention<sup>1</sup>, developed by the UN Economic Commission for Europe and adopted in 1998, represents the only exception (Hayward 2005, p. 57). The Convention is binding concerning the right to access to environmental information, the right to public participation in environmental decision-making and the right to access to justice in



environmental matters (EC 2015). The Convention was ratified by 46 states and the European Union (UNECE n.d.).

In 2012, the UN Human Rights Council established the post of the Special Rapporteur on human rights and the environment with the mandate to study human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (OHCHR 2015a). In the context of the UNFCCC climate summit in Paris in December 2015, the Special Rapporteur stressed that states had a legal obligation to consider their actions regarding climate change and human rights:

Every State in the climate negotiations belongs to at least one human rights treaty, and they must ensure that all of their actions comply with their human rights obligations. That includes their actions relating to climate change. (OHCHR 2015b)

For the effective implementation of an HRAE, many scholars emphasise the fundamental responsibility of the states in constitutionalising this right both in domestic constitutions and in international law. May and Daly found that the constitutionalisation of environmental rights in national and subnational constitutions has made significant progress in countries all around the world (May and Daly 2014). And Hayward emphasises that the recognition of environmental rights, such as an HRAE, in domestic settings can inform international law (Hayward 2005, p. 192). While Hiskes observes that ‘environmental human rights [...] clearly constitute a newly emergent human right’ (Hiskes 2009, p. 144), these environmental rights remain rather impotent in international law. However, given the polycentric nature of the global governance system and the global scope of an issue such as climate change, states are no longer the only relevant actors in this regard.

### **The role of city networks in promoting the human right to an adequate environment**

How can non-state actors contribute to the promotion of human rights as transnational law? As it has been widely analysed, transnational advocacy networks formed by civil society organisations and social movements have been hugely influential in shaping human rights norms in transnational settings through formal and informal channels (Hein and Moon 2013; Keck and Sikkink 1998 and 1999; Risse et al. 1999 and 2013).

Since non-state actors are far too weak to compete with the states for power and influence in global governance and are mostly left out of international decision-making processes, they are obliged to join forces in transnational networks or nodes (Hein and Moon 2013). Through these networked forms of governance, non-state actors are potentially able to multiply their power and considerably influence norm-building processes. An increasing number of studies emphasises the relevant role of cities in global climate governance and their networking efforts to better cooperate on environmental issues (Betsill and Bulkeley 2004 and 2006; Kern and Bulkeley 2009; Toly 2008; Bulkeley 2015). And both ICLEI and C40, the two most influential city networks on climate change action, represent an insightful example of how cities can contribute to the emergence of a human right to an adequate environment as transnational law.

### **ICLEI – Local Governments for Sustainability**

Since its creation in 1990, ICLEI (International Council for Local Environmental Initiatives) – Local Governments for Sustainability has become the leading city network of local governments committed to sustainable development and climate change action. ICLEI works to create sustainable cities through a global network including cities of all sizes and from all continents with 17 offices all around the world and several distinct thematic agendas, such as Sustainable City, Low-Carbon City, Resilient City, BiodiverCity, EcoMobile City, etc., dedicated to specific topics of sustainable and green development (ICLEI 2014, p. 3).<sup>2</sup> Besides, ICLEI's activities are organised into eight additional networks facilitating city-to-city cooperation on a variety of sustainability issues such as water quality, renewable energy, climate change resilience and others.<sup>3</sup>

ICLEI is governed by a Council composed of up to 45 members. These members come from the nine Regional Executive Committees, each representing one of nine defined continents. These Regional Executive Committees (Africa, Latin America and the Caribbean, North America, East Asia, Southeast Asia, South Asia, Europe, Oceania)<sup>4</sup>, representing the respective region, are made up of three to five members of that region. A third body, the Global Executive Committee (GexCom), composed of up to nine regional representatives and up to six portfolio representatives, represents ICLEI at the global level vis-à-vis global and international institutions. The Secretary General, appointed by GexCom, leads the ICLEI World Secretariat in Bonn and oversees the global centres<sup>5</sup> and regional and country offices around the world (ICLEI 2014, p. 14, p. 18). Due to ICLEI's global role, the organisation has acted as an observer

to the UNFCCC negotiations and coordinated the observers of local governments since 1995 (ICLEI 2008a). And since 2009 ICLEI has been an observer to the International Panel on Climate Change (IPCC) (ICLEI 2008a).

The Cities for Climate Protection (CCP) Campaign, launched in 1993, represents one of ICLEI's most successful initiatives in city-to-city cooperation on climate change based on technical cooperation, knowledge exchange and capacity building in the areas of energy efficiency of buildings, transportation and waste disposal (ICLEI 2006 and 2008b). In 2006, 546 local governments in 27 countries participated in the campaign with the broad majority from North America (290 participants) and Europe (156 participants) (ICLEI 2006, p. 16).<sup>6</sup> The International Progress Report found that those participants in North America achieved to reduce annual emissions by 27.5 million tonnes and those in Europe by 23.5 million tonnes (ICLEI 2006, p. 4). While several academic studies were cautious not to exaggerate the success of the initiative, they nevertheless found that CCP was successful in facilitating local climate action and reframing climate change as a local challenge, helping to localise its consequences for citizens, communities and cities (Betsill 2001; Betsill and Bulkeley 2004; Holgate 2007; Roberts 2008; Romero Lankao 2007; Wang 2012).

In 2007, ICLEI launched the Local Government Climate Roadmap as a global framework to empower local governments and increase their role in global climate governance vis-a-vis the states. In this context, the cities elaborated several tools and instruments such as the Carbonn Climate Registry, which has turned into the leading global database for climate action of local governments, and the GHG Protocol for Cities, a harmonised framework for cities including standards to measure and report greenhouse gas emissions. Both methodologies are used as the key reference of several city networks and initiatives, including the Compact of Mayors, the largest initiative of cities which came together in 2014 in the context of the Local Government Climate Roadmap to create a global platform for collecting data on cities' GHG emissions, reporting on progress and making further commitments to GHG emissions (Carbonn Climate Registry 2015, p. 10-11).

In addition, ICLEI was successful in winning over several national governments for intensified cooperation. This so-called 'Friends of Cities' group, created in 2013, commits to supporting cities in their climate adaptation and mitigation activities and promote structures and frameworks for cooperation. The pioneering friends include France, Germany, Indonesia, Mexico, the Netherlands, Peru, Poland, Senegal and South Africa (ICLEI 2015 and 2016). The South African government, for instance, supported the adoption of the Durban Adaptation Charter for Local Governments in 2011 at the UNFCCC Conference of the Parties in Durban

(ICLEI 2015, p. 7). The Charter, which so far has more than one thousand signatory cities, commits local governments to local climate action through a hub and compact approach. By collaborating with hubs (partnerships between two cities advanced in climate change adaptation) in the context of compacts (the elaboration of a partnership model), local governments are involved in networks of networks to reinforce collaborative action based on capacity and knowledge sharing (eThekweni Municipality 2015, p. 6-7). The Mexican government was a key actor in supporting paragraph 7 of the UNFCCC Cancún Agreements in 2010 which for the first time recognised the important role of local and subnational governments in the global climate regime (ICLEI 2015, p. 5). The French government supported the Nantes Declaration of Mayors and Subnational Leaders on Climate Change in 2013 which commits local governments to cooperation with state and non-state actors on climate action in the context of the Local Government Climate Roadmap (ICLEI 2015, p. 3; Nantes Declaration 2013).

ICLEI has never acted in isolation from other city networks. One of its most important partners is the leading network of megacities, the C40 Cities Climate Leadership Group. ICLEI collaborates with C40 in the context of the Local Government Climate Roadmap, the Compact of Mayors, the Carbonn Climate Registry and other initiatives.

### **The C40 Cities Climate Leadership Group**

In 2005, the then Mayor of London Ken Livingstone convened representatives from other 18 megacities to reduce greenhouse gas emissions which resulted in the creation of the largest global network of the world's megacities on climate change, the C40 Cities Climate Leadership Group. One year later, the Clinton Climate Initiative (CCI) joined the network as its delivering partner. The Clinton Foundation tries to pool the cities' purchasing power to lower the prices of energy-saving products, mobilise the best experts in the world for technical assistance and creates and deploys standard measurement tools and Internet-based communication systems (Clinton Foundation 2006).

In 2011, at the C40 Cities Mayor Summit in São Paulo the network partnered with the World Bank and ICLEI to reinforce its approach to local climate action (C40 Cities 2015a). The network relies on a secretariat, located in London, a steering committee (the main decision-making body), a board of directors (overseeing management and day-to-day activities) and the chair of the C40. The steering committee is composed of C40 members on a rotational basis

(currently the mayors of Amman, Boston, Copenhagen, Hong Kong, Jakarta, Johannesburg, London, Los Angeles, Mexico City, Milan, Rio de Janeiro, Seoul and Tokyo), (C40 Cities 2016a). The chairmanship is also a rotation position and currently held by Eduardo Paes, the Mayor of Rio de Janeiro (C40 Cities 2016b). Today, the network has more than 75 city members.

It is the aim of the network to facilitate dialogue, share ideas and solutions and exchange knowledge in seven key areas, such as ‘Adaptation and Water’, ‘Energy’, ‘Finance and Economic Development’, ‘Measurement and Planning’, ‘Solid Waste Management’, ‘Sustainable Communities’ and ‘Transportation’. Within these areas, C40 created several thematic networks (currently 21 networks) which allow the participating cities to engage in cooperation (C40 Cities 2015b; C40 Cities and ARUP 2015a, pp. 9-10). For example, the Climate Change Risk Assessment Network aims to support cities in building climate resilient cities by conducting climate risk assessments and identifying effective adaptation strategies for those consequences of climate change cities are most affected by, such as extreme temperatures, floods, water scarcity, etc. (C40 Cities 2016a; C40 Cities and ARUP 2015a, p. 38, p. 50). In this area, the city of Melbourne received in 2014 the C40 City Climate Leadership Award for its Urban Landscapes Climate Adaptation Programme, which increased green space by 7.6 percent of municipal space to cool the city by 4°C and reduce drought vulnerability (C40 Cities 2015c). In the area of transportation, the network Low Emission Vehicles works with almost one-third of C40 cities to seek to reduce greenhouse gas emissions by introducing electric vehicles. The participating cities (26 C40 cities thus far) signed a Clean Bus Declaration agreeing to add low and zero-emission buses to their fleets (C40 Cities Clean Bus Declaration of Intent n.d.; C40 Cities 2015d). In 2014, the city of Shenzhen won the City Climate Leadership Award in this area for having introduced by the end of 2013 a new energy fleet of more than 6,000 units which makes it the largest zero-emission fleet in service worldwide (C40 Cities 2015d).

The C40 network develops regulatory policies and legislation on climate action, implements local projects, acts in partnerships with governments, companies, civil society, international organisations and others and facilitates local climate action by creating an attractive environment for other to act (C40 Cities and Arup 2015b, p. 37-38). Although many cities have limited powers in implementing local climate projects on their own, cities in the C40 network are highly successful in delivering local climate action in collaborative and facilitative schemes, particularly in the sectors of energy and transport (C40 Cities and Arup 2015b, p. 5 and 41- 42).

According to the data of 66 cities of the network, 30 per cent of its climate actions were developed through city-to-city collaboration of which 44 per cent (13 per cent of all actions) involved collaboration through one of the C40 thematic networks (C40 Cities and ARUP 2015a, p. 10). For instance, Rio de Janeiro increased its recycling rate after learning about other cities' waste system experiences at C40's Summit in Sao Paulo in 2012 and the C40 Waste Networks. By participating in the C40 Sustainable Solid Waste Systems Network, Rio learned about new approaches to solid waste management from Johannesburg and Jakarta and incorporated aspects of these approaches in its own waste systems approach (C40 Cities and ARUP 2015a, p. 60). London took advantage of the experience pooled by the C40 Private Building Efficiency Network and learned from Chicago, New York, Houston and Toronto how to improve the energy efficiency of its buildings, given that around 75 per cent of London's GHG emissions come from buildings, in particular workplaces. The exchange of knowledge and information in this network influenced London's Business Energy Challenge, launched in 2014, which created a framework for cooperation between the Mayor and the private sector to make buildings more energy-efficient (C40 Cities and ARUP 2015a, p. 57). In the C40 network Connecting Delta Cities, the city of Rotterdam assisted Ho Chi Minh City between 2011 and 2013 in developing its Climate Adaptation Strategy. Due to its location in a river delta, one-third of Ho Chi Minh City is already exposed to flooding and rising sea levels. The partnership with Rotterdam aims to implement the measures elaborated in the Climate Adaptation Strategy and may serve as a model for other delta cities worldwide (C40 Cities and ARUP 2015a, p. 79; Dutch Water Sector 2013).

Apart from incentivising collaborative and facilitative climate action, the C40 network has also been engaged in boosting its profile as a diplomatic actor. Together with ICLEI and the United Cities and Local Governments Network (UCLG) - another city network on sustainable development -, C40 leads the Global Compact of Mayors as the principal platform for city action on climate change (C40 2016c, p. 15). In the same vein, C40 partnered with the Global Commission on the Economy and Climate to create the Coalition for Urban Transition, which aims to improve the coordination of cities and national governments on urban development projects (Coalition for Urban Transitions, 2016).

While intensifying cooperation on climate change among cities, C40 is also engaged in sharpening its profile as a serious player vis-a-vis the states. C40 was present at the COP-15 in Copenhagen in 2009, the R+20 Summit in Rio de Janeiro in 2012 and the most recent COP-21 in Paris, where C40 organised several meetings and events on the crucial role cities play in the fight against climate change (Acuto 2013a; C40 Cities Blog 2015).

Both ICLEI and C40 represent planetary city-networks to turn the global challenge of climate change into a local challenge to be dealt with in local and urban settings. Mostly through collaborative and facilitative action, these networks implement local projects in a variety of different thematic areas such as energy, transport, waste management, urban planning and adaptation. Although the power of cities to act individually on climate change is limited, and they cannot compete with the states, cities have been extremely successful in delivering local climate action through partnerships with international organisations, private actors, civil society and other city networks.

Their activities, however, have gone far beyond mere networking. In the context of the Local Government Climate Roadmap both ICLEI and C40 have created tools and instruments such as the Carbonn Climate Registry, the GHG Protocol for Cities or the Global Compact of Mayors to harmonise climate action, measure GHG reduction and decide on collective action on climate change. For the same reason, cities have formally committed themselves repeatedly to local action on climate change based on several declarations such as the Durban Adaptation Charter, the Nantes Declaration or the Clean Bus Declaration. By implementing local climate projects in a collaborative and facilitative fashion together with other non-state actors, cities have achieved to localise the global challenge of climate change, serving as an indispensable link between the states and other non-state actors from civil society and the private sector. With these activities, cities can promote a human right to an adequate environment by putting additional pressure on the states to codify such a human right in domestic and international law. Cities are objects of international legislation, such as the 2015 Paris Agreement, they assume duties and responsibilities in local climate action, they locally enforce norms and standards, and they carry out these activities through various governance mechanisms such as planetary networks or global platforms. In this respect, cities breathe new life into the transnational efforts of promoting and enforcing a human right to an adequate environment in the global governance system.

## **Conclusion**

In 2010, the then forty members of the C40 network were responsible for 2,364 billion tonnes of Co<sub>2</sub>e per year, only behind the US (7,107 billion tonnes of Co<sub>2</sub>) and China (4,058 billion

tonnes of Co<sub>2</sub>e) but ahead of the Russian Federation (2,193 billion tonnes of Co<sub>2</sub>), Japan (1,374 billion tonnes of Co<sub>2</sub>e) and others (World Bank 2010, p. 18, p. 68). As Acuto rightly argued, cities are the ‘invisible gorillas in international studies’ (Acuto 2010, p. 426), even more so in shaping transnational law in global climate governance. In the implementation of the Paris Agreement of 2015, the states can no longer afford to neglect the multi-faceted activities of cities in climate governance. And the states have slowly started to realise the potential of those formidable actors right under their noses. The recognition of cities as relevant actors in climate action at the UNFCCC CoP in 2010 in Cancún or the formation of The Friends of Cities in 2013 represent first signs that the attitude of states towards cities is slowly changing. While states remain the most powerful actors in confronting climate change, the whole issue is too big a challenge to leave it to the states alone. In a global governance system where states are no longer the only actors and where their spheres of influence are challenged by corporations, civil society actors, foundations or public-private partnerships, new opportunities arise for these new actors to tackle a challenge like climate change.

Cities all around the world are hugely affected by climate change and environmental degradation. At the same time, cities contribute to greenhouse gas emissions through fossil-fuelled transport, waste disposal, old buildings and industry. Furthermore, it is in cities where the consumerist lifestyle is cultivated among the urban middle and upper classes, which, after all, is responsible for greenhouse gas emissions, in particular in the richest cities. To tackle climate change, human beings all around the world need to reconsider their lifestyle. Since more than half of the world’s human population lives in cities, tendency rising, cities have a word to say about how to confront climate change.

Instead of viewing cities as non-actors, states need to recognise cities as their natural partners in shaping international and transnational law and human rights legislation because cities, through their actions, are already shaping it. In September 2016, cities are going one step further by convening the first session of the Global Parliament of Mayors. Political scientist Benjamin Barber, the key thinker behind this project, developed a Declaration of the Rights of the City and Citizens to be considered by the invited mayors at the inaugural session in September. Among the rights of cities and citizens paragraph 4 includes ‘[t]he right to clean air and water and to a greenhouse environment with minimal (eventually zero) carbon emissions, which translates into the right to take action to assure a safe and sustainable environment, regardless of the action or inaction of other levels of government’ (Barber 2015). If this declaration were adopted, the Global Parliament of Mayors, with the participation of



representatives from ICLEI and C40, would constitute the next step in cities' efforts to shape the transnational law of environmental rights.

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<sup>1</sup> Its full name is ‘Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters’.