Article

The Global Public City in the 21st Century: Written and Unwritten Rules within and beyond the State — Transdisciplinary Reflections

Cindy Daase

Summary

The 21st century is predicted to become the century of the city, in which urban spaces will be sites, laboratories, and catalysts for global, local, and transnational forms of (democratic) governance. This sound declaration of another spatial turn puts cities once again at the center of interest, especially when it comes to studying the localization of the global. Cities have become objects, loci, subjects, and agents of emerging transnational forms of governance and cooperation. They increasingly now operate not only within but also parallel to and beyond states on the local, regional, as well as global stages. In the context of the contemporary scientific debate about "written" and "unwritten rules" of political and legal practices in different political spaces around the world, the following reflections focus specifically on global public cities. To this end, the article adds new perspectives on democracy and on both written and unwritten rules of the political realm when it comes, for instance, to cities' relations with the (democratic) state as well as with other cities as participants in global networks. In these relations cities increasingly use the language of interstate relations and international law, and mimic states' practiced forms of institutionalized and legalized interaction. The paper briefly summarizes key arguments made from international law and political science perspectives, before then presenting selected voices from the literature who might enable us to enter into a transdisciplinary dialogue with them — especially focusing on comparative and cross-regional ones regarding the 21st century global public city.

Introduction: some thoughts about cities in the 21st century

The 21st century is predicted to become the century of the city. Twenty-first century cities could be considered as laboratories for global, local, and transnational forms of cooperation and governance and, thus, also as objects and agents of globalization at the same time.[1] Over 50 percent of the world's population is currently living in

---

1   In this context the term "global governance" is used to denote public and private partnerships, as well as hybrid relationships with state and non-state actors alike that are involved in the creation and

cities; by 2030 — and most likely even earlier — that figure will rise to 60 percent, and by around 2050 to 70 percent (Nijman 2009, 2011). Whether classified as so-called "world," "global," "mega-," "hyper-," or more recently as "innovative," cities of all sizes, the regions around cities, as well as the networks between different cities can all be considered to be major hubs for the flow of capital, trade, and migration (workers). Furthermore, they can also be thought of as new forms of political and regulatory cooperation, and as a consequence as crucial for the transfer and diffusion of political and legal ideas, practices, cultures, and knowledge (see, for example, Aust 2013: 681ff.; Blank 2006: 881, 925, 930–931; Brenner 1999: 434; Castells 1996: 398–428; Curtis 2011: 1923–1925, 1931, 1933, 1938; Friedman 1986: 69, 71–73, 75–77; Friedman and Wolff 1982: 309; Frug and Barron 2006: 8–10, 23–29; Nijman 2011: 213–217; Sassen 1991: 85ff.; 2000: 1–30; Soja 2000: 16–18). Hence, it is not surprising that cities have received significant attention from scholars of various academic disciplines. An overview of this broad literature would go beyond the scope of this article, as scholars look inter alia at issues like economic competition, citizenship, social cohesion, and governance through the lens of the city. More recently, some researchers have started to seek out postmodern and post-Western perspectives on cities, based on experiences from cities in the Global South — therein stressing the need for new approaches being taken to interregional or cross-area comparisons (Robinson 2011: 1–2; Pieterse 2008: 1ff., 64–65; Purcell 2003: 572).[2] Little attention, however, has thus far been paid to the legal dimensions of the global roles and interactions of cities (Aust 2013: 675; Schroeder and Bulkeley 2009: 314ff.).[3] Why, then, have legal scholars, for instance, not turned their focus to the relations between international law and the 21st century global city?

This question can implicitly be answered when approaching and defining the city from a legal perspective as an actor operating on the local, domestic and global level. The "bureaucratic conception," for instance, envisions cities as objects of municipal law, and hence as "integral parts" of the state, as an "administrative conveniences," or as local branches of the central government (Blank 2006: 887–888). The "democratic conception," in contrast, perceives local governments to be independent and autonomous semi-sovereign democratic entities that are distinct from and independent of the state — ideally ones depending on and reflecting the will of the local population. The contradictions inherent in these two conceptions are underlined by the fact that state constitutions and domestic laws usually treat

---

implementation of written and unwritten local, domestic, transnational, and global rules; on the regulation of globalization, see Held (2000: 420–430).

2   Concerning the tensions between comparative and area and cross-area studies, see Robinson (2011: 19); Berg-Schlosser (2012: 2–14).

3   Scholars of Comparative Political Science and International Relations have also largely turned a blind eye to the city (Curtis 2011: 1923; see also, Aust 2013: 675).

"localities" — in other words cities and municipalities[4] — as parts of the central state apparatus, while they also empower locally elected officials to run local governments — thereby simultaneously granting them autonomy and freedom from central intervention (Nijman 2011: 214; Blank 2006: 887–888; Frug and Barron 2006: 1–22).[5] Others identify the existence of a legal and political dimension of a "global public city" that acts on the domestic, regional, and global levels, within, out of, but also independently from the state — ideally based on the direct will of an urban population (see Frug and Barron 2006: 1–22 who talk about an emerging "international local government law"; Nijman 2009: 17; 2011: 216–218).

Most recently Helmut Aust (2013) has investigated the international legal relevance of cooperation between cities, as well as between cities and international organizations, while admitting that international law is at first glance "blind" when it comes to the local levels of (public) power and cooperation (see also, Blank 2006; Frug and Barron 2006). He argues, however, for a broad and open understanding of international law when it comes to a global public city perspective — without neglecting the difference between law and non-law, in other words the legally relevant and irrelevant forms of city actions and cooperation.[6]

Aust hones in on the actions and initiatives of city governments — those are the elected or in other ways authorized representatives of a city's population (Aust 2013: 678; see also Frug and Barron 2006: 10–12; Nijman 2011: 217). He underlines the importance of his focus on city governments as representatives of the global public city by pointing to the fact that the research on "global" and "world" cities is usually centered around an understanding of the city as a "territorial agglomeration of people and capital." These analyses set the focus on transnational interactions and interconnections of "private cities," ones that are created by and centered on processes of economic exchange but that are not necessarily directly connected to the city or municipality as a public legal and political entity (Sassen 1991: 85ff.; 2000). Aust sets the focus on the international legal dimension of the city as part of the public power (of a state), and in particular on cities' cooperation beyond the state in ways that seem to challenge the exclusive dominance (public power) of the latter — especially at the global level (2013: 678–681; see also, Brenner 1999: 438–441, focusing on "rescaling the state," and multidimensional

---

4   "Locality" is a term used by Blank to address cities as well as other municipal entities so as to capture a potentially emerging legal concept in international law (2006: 870–871, 883, 887).

5   For Blank, neither the democratic nor the bureaucratic legal conceptualization of "locality" is satisfying (2006: 887). He also finds that: "Although localities existed throughout human history as spatial, political, social, and economic phenomena, there is no coherent doctrine that explains their changing legal status in international law" (2006: 890–891 with a historical perspective); for a historical perspective on the city, see also Sassen (2006: 53–71).

6   Aust focuses on cities and climate change, and on the other activities of cities and municipalities by which they become involved in areas that were traditionally perceived to belong to the sphere of a state's foreign policy (2013: 674–675; see also, Frug and Barron 2006: 27–29; Nijman 2011: 228–229; Schroeder and Bulkeley 2009: 314ff.).

roles of the state, and other actors in these processes; Nijman 2011: 217). City governments have, for instance, started to internalize international legal norms and standards on their own initiative, especially in the field of environmental law, so as to give effect to international law on the local — and eventually also on the transnational and transregional levels — even if the state is actually not bound by it, or is unwilling or unable to enforce it (Nijman 2009: 17; 2011: 221–223; Schroeder and Bulkeley 2009: 314–319).

Furthermore, international organizations and initiatives have recently started to directly address the city. The UN-HABITAT-led "Global Campaign on Urban Governance," for instance, has identified a set of universal principles that characterize "good urban governance" — such as sustainability, subsidiarity, equity, efficiency, transparency and accountability, civic engagement and citizenship, as well as security — that are intended to pave the way for an "inclusive city"[7] (UN-HABITAT 2002: 3, 12; Nijman 2011: 219–221, 226; Pieterse 2008: 14, 62–83). They also strive for the formalization of the delegation of powers to cities via a state's constitution, so as to strengthen forms of cooperation beyond the state-level (The Global Campaign on Urban Governance 2002: 13). In sum, contemporary cities can be seen as objects and agents in multilayered, multidimensional, and multirelational bodies of both "written" and "unwritten rules," ones which have their roots in the local, federal, national, as well as global levels (see also Aust 2013: 681). Twenty-first century cities' actions and interactions on the local and global levels are, at the same time, increasingly being understood as vehicles for the transfer and diffusion of standards for democratic good urban governance,[8] creating an informal "trias" of state–city/locality–world, the components of which cannot be approached and analyzed separately from each other (Aust 2013: 681–682; Blank 2006: 881–883).[9]

Promoting this approach would also make it possible to go beyond the traditional distinctions between domestic and international law when exploring law's role in local, regional, and global urban spaces. Instead of arguing for hierarchies, this perspective offers heterarchical, network, and pluralistic perspectives on (legal and political) thinking about the roles and dimensions of law — and especially international law — in the 21st century global public city, as well on the "glocalization" of

---

7   The concept of an "inclusive city" can potentially be applied in the Global North as well as in the Global South. Yet, the notion of inclusivity could have different dimensions in the North and South, in particular it may resonate with different groups who are either "significant" or "marginalized" (The Global Campaign on Urban Governance 2002: 9).

8   With "good urban governance," UN-HABITAT (United Nations Human Settlements Programme) added a normative dimension to the discourse about the contemporary (global) city (The Global Campaign on Urban Governance 2002: 8).

9   Blank (2006) also introduced the term "trias," or "trinity," as regards the "world–state–locality."

urban spaces.[10] These observations raise broad questions such as: (1) Whether, and if so how, cities could potentially generate (good) urban governance within and beyond the written (and unwritten) constitution of the state? (2) Whether the 21st century global public city enables and guarantees participation, transparency, efficiency, responsibility, and the rule of law, or whether it instead creates representation without participation; and, (3) whether, ultimately, cities create their own pluralistic legal systems and have an influence on the development of national, international, and transnational law(s) and forms of governance?

This article cannot comprehensively discuss and fully answer these broad and fundamental questions. It will rather seek to identify the key ideas, methods, and new transdisciplinary perspectives that could be used to approach these core questions in the future. For this purpose, the next section will focus on the initial responses to these questions that are to be found in the works of two scholars of public international law — Janne E. Nijman (2009; 2011), who asks whether "cities are going wild,"[11] and Balakrishnan Rajagopal (2003), who recently started to explore the "right to the city as a human right." The core arguments of these two authors will be briefly summarized in the following section, before the voices in the literature that could inspire a transdisciplinary dialogue with them are introduced — herein focusing especially on comparative and cross-area and -regional perspectives on the city. The subsequent section will be dedicated to "problems to overcome" that will shape what the next steps to be taken in a transdisciplinary understanding of the global public city and democracy are. Also of concern here are (international) law and the role of written and unwritten rules within and beyond the state, under the umbrella of the concept of "unwritten rules" as outlined in the editorial by Claudia Derichs — the subject of the penultimate section. The article closes with some preliminary conclusions and looks toward the avenues future research might choose to pursue.

International law perspectives on cities in the 21st century: "cities going wild" and the "right to the city"

In her work on the city from an international law perspective, Janne Nijman focuses on the increasing role of cities as actors on the global level and on their potentially emerging international legal personality.[12] Nijman draws on the example of Seattle,

---

10 "Glocalization" describes the internationalization of global norms and standards as a phenomenon related to globalization, one that becomes particularly visible in localities like cities and municipalities (Blank 2006: 919–920).

11 Like Nijman, Blank (2006) points to the risk of "cities going wild" — for example cities that declare their independence both vis-à-vis the state and vis-à-vis the world by resisting international law, and furthermore by claiming autonomy from state rule.

12 Some of the following elaborations are based on Janne Nijman's (University of Amsterdam) contribution "Implementation of International Law without the State: Cities Going Wild?" to the panel "(Democratic) Governance of Cities in the 21st Century — The 'Unwritten Constitution'

among other cities. When the Bush administration chose not to ratify the Kyoto Protocol, the mayor of Seattle decided to nevertheless still implement it. Nijman uses this case as an illustrative example of initiatives that underline the relevance of understanding cities as international (legal) actors that implement and enforce international standards, especially in the fields of environmental law and human rights. In sum, according to Nijman, the 21st century city faces local problems rooted in global causes, to which it has to respond locally and globally, individually and collectively — in other words domestically, internationally, and transnationally. Hence, cities are increasingly using international law to govern the urban space, and therewith they are progressively become global (legal) players (Nijman 2009: 17; 2011: 227–228).

Throughout the course of these developments cities and their partners have been pushing toward decentralization on a global scale. UN-HABITAT, for instance, has promoted cities as its direct addressees and partners, while cities have themselves developed new standards and brought them into UN-HABITAT. Moreover, it seems to be increasingly attractive for international organizations to have direct relations with city partners. These international organizations are effectively pushing the greater inclusion of the city at the global level forward (Nijman 2011: 223–228). Nijman comes to the conclusion that these processes could strengthen democracy, both on the local as well as on the global level. Cities use international law and international organizations to establish and constitute themselves as entities that promote human rights and good governance both within and beyond the state (see also Blank: 2006: 872). Hence, even though cities do not have a clear international legal personality, they can acquire an informal or semiformal status within international organizations and the bodies created by them (Nijman 2011: 223–225).

Overall Nijman's work confirms the assumption that cities are — alongside states — internationally relevant actors in the formal and informal implementation, advancement, and eventually creation of international law.[13] Like Aust, Nijman writes of the rise of a "global public city" (as distinct from the "private city," Nijman 2011: 213; see also Frug and Barron 2006: 4) — in other words city governments that give a transnational dimension to their public-administrative functions and that develop relations with other cities around the globe, as well as with international organizations (Nijman 2013; 2011: 213). This makes globalization, urbanization, and decentralization to developments that may empower cities to act and cooperate bilaterally and globally in city networks independently and beyond the borders of their home state, and in some cases through international organizations. According to Nijman, this becomes a significant element of the self-constitution of the global public city

within and beyond the State" of the international workshop "Europe and Asia — Democracy in Entangled Modernities," held at the University of Marburg between January 18–19, 2013.

13 In other works Nijman has posited that the international law of the future will deformalize: "[...] following local judges, city governments will apply it simply by way of 'persuasive authority'" (2011: 213).

(2013; see also Frug and Barron 2006: 12–29). With the described rise of the city, the government of each takes up a global governance role (Nijman 2013; 2009: 17). Furthermore, Nijman (2013) not only points to the challenges that the global public city poses for traditional conceptions of international law but also to state-centered constitutional structures, asking specifically to what extent these developments produce or undermine domestic democratic governance. She also explicitly warns against putting the state aside completely, and therewith the uniform safeguards that the democratically elected central government offers to its domestic population (Nijman 2013).

Altogether, Nijman finds that global public cities can generate good urban governance within and beyond the state by developing a direct relationship with and under international law and with international organizations — and furthermore by implementing international law in and through the city networks that are now emerging. In sum, cities are increasingly constituting themselves both formally and informally as relevant political and legal partners; in an alternative outcome, however, cities could eventually also "go wild" in the wake of these developments and start actively resisting the standards set by the democratic state (Nijman 2013).

Balakrishnan Rajagopal, the second notable scholar to have taken up these themes, emphasizes the human rights perspective on the city coming from a "third world approaches to international law" perspective (2003).[14] Rajagopal's focus is on the field of international human rights as a site of changing the international system from "below," on the role of social movements, and in particular, on the informal and formal emergence of a "right to the city," taking place especially in the Global South (2003; 2013). According to Rajagopal, important components of this "right to the city" in the 21st century are the right to participation and to habitation. He draws on Henri Lefebvre's seminal work (1996) on the right to participate with regard to the city (as a place where everyone participates), on the social production of the form of the city, on the right to difference, and in particular on the right to inhabit a city as a right that differs from the right to property or to space-claiming (see also, Harvey 2012). The emergence of these rights, Rajagopal argues, is crucial, as the main contemporary threat to urban democracy is the exclusion of the urban poor who constitute the majority of the city's inhabitants. As an example of the risks and benefits in formalizing, codifying, or juridifying the "right to the city" — based on social movement initiatives — Rajagopal points to the 2001 Brazilian Federal Urban Development Law (Federal Law No. 10.257, July 10, 2001; Constitution of the Federative Republic of Brazil, Chapter II, Articles. 182–183).

---

14 Some of the following elaborations are based on Balakrishnan Rajagopal's (Massachusetts Institute of Technology) contribution "Right to the City as a Human Right" to the panel "(Democratic) Governance of Cities in the 21st Century – The 'Unwritten Constitution' within and beyond the State" of the international workshop "Europe and Asia — Democracy in Entangled Modernities," held at the University of Marburg between January 18–19, 2013.

Nijman's and Rajagopal's perspectives underline how the notorious problem of missing democracy in international law and global contexts is also present when looking at 21st century global public cities. Furthermore, the two different perspectives offered by these international legal scholars on 21st century cities also lead to the conclusion that these entities still remain embedded within states, notwithstanding their growing global relevance. In sum, these international legal perspectives give strong indications of the fundamental challenges that are to be faced when approaching and comparing 21st century cities' roles and interactions beyond the written and unwritten constitution of the nation-state.

Comparing global public cities

Cities are increasingly organizing transnational cooperation through the medium of city networks. When it comes to (urban) governance and their place in the globalized world, cities and city networks are now increasingly taking center stage — as cities redefine their role both vis-à-vis the state and in the international sphere. The relationships between the global, the state, and the city are creating new dynamics in both international and domestic legal and political systems, as well as new modes of governance that take such localities as vehicles for a global diffusion of contemporary norms, knowledge, ideas, cultures, and political theories (such as democratization, multiculturalism, and efficiency).[15] This underlines the growing relevance of the question of whether globalization, urbanization, and decentralization have now become the core of and catalyst for a denationalization process, and, furthermore, whether cities are indeed a "schoolhouse for democracy" in which citizens can experience "glocal" self-rule/governance and become involved in and informed about politics and the democratic process. All these queries invite us to further explore the transformation and role(s) of the global public city from a comparative perspective between different regions, such as between Asia and Europe.

Looking for suitable methods and approaches for this, such a comparison could take inspiration from the seminal work of Jennifer Robinson — who advocates for a "comparative gesture" in urban studies and theorizing. She has identified a lack of comparative research on cities, especially of comparisons that reach across the Global North–Global South divide or across contexts of "wealthier and poorer cities" (Robinson 2011: 1; Blank 2006: 924–925; see for example Sassen 2000: 33–

---

15 Blank finds that "most justifications for the global decentralization project are based on the belief that it will promote efficiency and democracy," but expresses strong doubts about whether this is really the case (2006: 926). He further explains how he does not consider powersharing to be a causal outcome of decentralization. Moreover, the emerging discussions on the significance of the idea of subsidiarity when it comes to the role and powers of the 21st century global public city, and on new comparative approaches to cities, could according to him be inserted into the analysis of city–governance–democracy relations.

57).[16] Robinson both reviews the existing approaches to comparing cities and discusses the potential that different comparative methodologies have to help overcome the limitations of those approaches (Robinson 2011: 4–12).[17] In doing so, Robinson "proposes a new phase of comparative urban research that is experimental, but with theoretically rigorous foundations," and rejects the "inconsumerability" and "incomparability" of different kinds of cities (2011: 1–2).[18] She also underlines the necessity of consciously avoiding a comparative approach that goes in the direction of "developmentalism" and "catching-up modernity," which would fall into the trap of Western- or Eurocentrism (Robinson 2011: 3–4).

Comparing cities from a cross-area perspective could enable comparative research to be conducted across diverse urban contexts, so as to learn and understand more about the complexities and variations in city governance and of the circulation of ideas, policies, and practices — and also of "unwritten rules," as introduced by Claudia Derichs' editorial. "When the unit of comparison is not the city as such, and the criteria for determining comparability are not restricted to national-scale characteristics or stereotypical features of a city, opportunities for pursuing comparative work proliferate" (Robinson 2011: 16). Approaching written and unwritten rules and global cities in a way informed by Robinson's perspective offers the opportunity to explore how we understand the global public city of the 21st century — in other words how space, knowledge (of democracy) and rules are produced and diffused. This "assemblage perspective"[19] accepts uncertainties, instead of seeking for

---

16 "Globalized localities in the developed world are very different than globalized localities in the developing world. Within developing countries, globalization also creates gaps among localities and its impact on different localities is radically disparate" (Blank 2006: 924–925).

17 Robinson (2011) discusses the following strategies for comparison: "cannot compare," "individualizing," "universalizing," "encompassing," "variation-finding." Reflecting on her proposed strategies falls outside of the framework of this particular paper.

18 Robinson summarizes that: "For Comparativism to be proliferated and enabled as a method for learning about and from a world of cities, we need to consider some thoroughgoing reformulations of the more limiting theoretical and methodological inheritances of comparative methods [...]. These inheritances include: procedural assumptions based on a scientific model of analysis, such as controlling for predetermined independent variables; the relatively reductionist causal assumptions (economic, political) on which the identification of appropriate case studies is premised; a territorialized imagination of what constitutes a case for investigation, especially the privileging of the city-scale as the site of urban processes; the use of national-level criteria to determine the comparability of cities; and dependence on relatively parochial theory-driven hypotheses to generate research topics and to select case studies. [...] The suggestions [...] draw on the ways in which we think about the spatiality of the city itself, as a site of assemblage, multiplicity and connectivity, to set out some pathways towards a more international and post-structuralist comparative approach to urban studies. A spatial understanding of the processes at work in cities can draw us towards alternative maps of causality, differently constituted cases for comparison and new ways of bringing cities together within the field of vision that is comparative research. [...] What is needed is an analytically nimble and possibly experimental suite of comparative methods that are capable of responding to the array of urban experiences present in the world of cities and to the challenges of doing urban studies 'at the world scale'" (2011: 13).

19 Curtis stresses the explanatory power of the "assemblage theory" that could show how states and cities are responding to processes of both de-territorialization and re-territorialization, as "[...] valued

reductionist and causal forms of explaining and understanding the phenomenon in question. It is not built upon the "knowledge of empires" (Robinson 2011: 17–19; Hardt and Negri 2000), but accepts, as Pieterse put it, an "emerged" and "open-ended reality" (2008: 12).

Robinson (2011) suggests that a more interconnected field of research could draw both inspiration and methodology from the cities that constitute its objects of study. According to her: "This style of theorizing would be neither a parochial universalism nor a uniform global analytical field but a rich and fragmented array of ongoing conversations across the world of cities" (Robinson 2011: 19). Incorporating elements of Robinson's approach for our thinking about 21st century cities could lead us into a dialogue with the previously presented international law perspectives. Along with Robinson's propositions, Berg-Schlosser's (2012) recent exploration of comparative area studies and cross-area studies as well as the idea of the role of "unwritten rules" outlined by Derichs could also have a similar effect.

Problems to be overcome when approaching 21st century global public cities from transdisciplinary perspectives

All in all the (new) cross-area perspectives presented above also help to identify aspects which need to be further discussed and conceptualized to enable transdisciplinary and comparative approaches to global public cities: (1) The trias state–city/locality–world, and (2) the relationships between governance–democracy–city.

The "trias" state–city/locality–world

Blank (2006) analyzes the ways in which localities are "exposed" to global norms and institutions due to the activities of both local and national actors. According to him, the "rise of cities/localities" is accompanied by three main competing sets of reasoning about cities and decentralization: the emphasize on economic efficiency that comes with decentralization and the rise of local power; the usage of localities as instruments for achieving community empowerment and pluralism; and, the perception of local governments as important vehicles for spreading democracy across the world. All three perspectives are based on a popular discontent with the national government's capability to cope with the legal and political challenges of globalization.

This paper turns attention specifically to how city governments have become more and more autonomous since globalization, and how their international activities have

special fragments within the national container are being delinked from that space and reconstituted through new linkages at the global scale. Such valued fragments are primarily located within global cities, and, as such, represent the emergence of new forms of global centrality. Finally […] the new social spaces enabled by the technological infrastructure of global cities have become locations for political contestation over a set of nascent temporal and spatial structures very different to those that characterised modernity" (2011: 1946, taking recourse to Sassen 2006).

simultaneously nourished their cooperation with each other at the local and global levels. Nevertheless, while cities seem to turn global they remain embedded in their respective nation-state. Hence, the trias state-city/locality - world has to be taken into account so as to avoid the construction of a narrative of cities working only for themselves independently of the nation-state. At the same time cities interact with each other on the global scale, and also with states as well as international organizations. They become participants and addressees — and thus relevant actors — on the global level, using the rhetorics and practices of international relations and international law.

Drawing on the example of climate change cooperation between cities, Aust (2013) — similar to Nijman — identifies the following commonalities to be found in the actions of global public cities: they usually pursue a legitimation strategy for their conduct and cooperation, in which they manoeuver between "formality" and "informality" while, at the same time, imitating the language, habits, and forms of international relations and international law. Aust sees a dialectical relationship existing between a local and global perspective on issues like climate change and the rescaling of statehood (Aust 2013: 692–695; Brenner 1999: 435–448), one that enhances the degree of entanglement between the local and the global (Aust 2013: 695). Referring to "informality," Aust points out that law(making) has to catch up with the increasing political role and practice of the city on the global level.[20] However, the rise of the global public city does not automatically imply the simultaneous decline of the state (Aust 2013, referring to Blank). Rather, as also pointed out by the author of this paper, cities are objects and agents of globalization that take up new roles and responsibilities on both the global as well as the domestic levels vis-à-vis — or within — the state, while these levels and roles cannot strictly be separated from one another. This "assemblage," according to Aust (2013), can also not be placed in clear cause-and-effect lines of analysis and argumentation. Ultimately, however, it might currently be too soon to see and predict all the variations and dimensions of an emerging international law for global public cities (Aust 2013, which leads back to Robinson 2011).

The relationship(s) between governance, democracy, and the city

The subheading indicates a pressing question existing concerning the connection between governance and democracy: "governance," and especially "global governance," are concepts far from being clearly defined and uncontested — while "democracy" does not seem to necessarily be an essential element of governance (Blank 2006: 928; Held 2000: 420–430; McGrew 2000: 405–419). Categories and concepts like "accountability," "transparency," or "the rule of law" seem more

---

20 With international organizations increasingly addressing cities and municipalities directly, Aust (2013) finds that the "informality" and "participation" of cities is becoming increasingly formalized and (non-participation) sanctioned.

closely associated with the general understanding of governance than with democracy. This underlines that the conceptualization and operationalization of governance is strongly linked to administrative practices, and to the functions of administrative structures. An effective administration, however, is not necessarily linked to democracy — nor is governance.

Hence, in order to be able to contextualize this article within the larger research picture outlined by Claudia Derichs' editorial it is a core challenge to link and think about the idea of democratic governance in the 21st century global public city. This needs, furthermore, to be done by taking a comparative perspective between cities as old and new spaces of governance in different world regions that are connected regionally and interacting globally. Concerning democracy and the "democratic quality of the city," from a contrasting and comparative North–South perspective Pieterse (2008), for instance, points out that at the beginning of the 1990s the discourse on multiparty democracy took a hegemonic form. In most developing countries this often went hand in hand with the strengthening of centralized state power in the national government (especially the Executive) — in other words local democracy was and usually stayed underdeveloped. Most of the previous debates about democratization concentrated on the diffusion of democratic structures from the national to the local level, and hence on the reproduction of the central state's political culture in local settings so as to make the state more effective. Local reforms, in contrast, were often neglected and state–city–democracy relations remained obscure. In contrast to global campaigns, according to Pieterse (2008) the working of every element of the trias is important. The trias becomes a global experiment or laboratory, often stimulated by international organizations that stress global standards for good urban governance, therein promoting the "inclusive city" (Pieterse 2008: 65–66).

What happens if this understanding of governance is embedded in and connected to thinking about global public cities in the 21st century as complex spaces of democratic movements and of reforms from both above and below? The democratic governance of cities could be analyzed from a perspective of "participation," or the ways in which inhabitants are involved in decision-making processes and the exercise of power (De Sousa Santos 2005: 310–337). Other authors point, in this context, to the effect that the outlined development will have on "citizenship," meaning the rescaling, re-territorialization, and reorientation — in short "glocalization" — of citizenship from the nation-state, as the predominant community, to the city — thereby forcing us to rethink established ideas about the institutions of citizenship (Purcell 2003: 565–566, 572; Pieterse 2008: 2; Brenner 1999: 431, 435–448). This perspective enters into dialogue with Rajagopal's concept of the "right to the city" that is expressed in and through those transnational social movements that focus on life in the city and the right to the (global public) city. Their claims are usually directed to and advanced at the subnational level, and focus on the city or even smaller inner-city subunits. These claims and movements —

which are capable of existing informally both alongside and beyond the state — are not necessarily based on formal concepts of citizenship (Purcell 2003: 573). Additionally, these movements can even take transnational and transcity forms (Purcell 2003: 573). Ultimately, the "right to the city" takes a different dimension and rescales to the "right to the global public city" (Purcell 2003: 576–583; Brenner 1999: 431–432, 435–448). Further, cities may also develop certain types of informal institutions outside of the formal economies, conventional governance systems, and unjust structures of opportunities that exist in them (Pieterse 2008).

In taking this internal perspective, however, one should not turn a blind eye to the lack of global democratic governance when it comes to global public cities. If cities, as illustrated above, are seen as emerging global actors and networks then they also become part of the notorious problem of the lack of democracy that currently exists in the global realm. As a consequence, the core "democracy-related" questions that now need to be faced are: Who should speak for the 21st century global public city, and who should, at the same time, act on its behalf across multiple levels — namely the local, state, regional and global ones? How are these actors legitimized to make decisions, meaning how and where can we localize the written and unwritten rules that empower them to do so? Who participates in those decision-making processes? How are issues debated, dealt with, and resolved — or not? These processes and procedures are informed by the deeply embedded (unwritten) governance culture of a locality or region (Pieterse 2008: 12), a culture that encompasses accepted modes of governance, of embedded cultural values, and, in short, the formal and informal structures of policing discourses and practices (Pieterse 2008: 13, Table 1.1). Altogether, it appears key to hone in on the democratic legitimacy of the governance practices of cities when engaging with each other on the regional, cross-regional, and global levels; particularly given that contemporary concepts of democracy still — with some exceptions — put the nation-state at the center of their analytical focus.

The concept of written and unwritten rules and the 21st century global public city

Does the concept of "written" and "unwritten rules" in the legal and political realms help to address the above-raised questions and challenges? Written rules can only determine formalized democratic practices — such as elections and the formal preconditions of individual participation — but not the important other aspects of (informal) democratic practices, such as actual engagement in informal settings for instance. In 21st century cities, democracy can occur and concur in both formal and informal ways: as proceduralized democratic participation — like elections for becoming mayor or getting seats in parliament — as well as through societal/social movements with (g)localized agendas.

The term "unwritten rules" refers to the circulation of ideas, cultures, and practices related to law and to politics. To compare the unwritten constitutional preconditions

within different societies — of both states and cities — and to identify at which point a particular precondition and/or societal demand becomes a new legal concept — as, for instance, when and how the idea of a "right to the city" turns into a constitutional or federal law — could be of particular interest.[21] Whether these legal rights in turn will have an actual effect depends also on extralegal preconditions, for example whether local and domestic jurisdictions are ready or able to enforce these rights of and to the city.[22] This leaves room for further exploration henceforth of how especially international law perspectives can be integrated into the ongoing discussions about 21st century cities, as well as of how cities generate (good democratic) urban governance within and beyond the written and unwritten constitution of the state.

Preliminary conclusions and outlook

When thinking about law and the phenomena of globalization, Alfred Aman argues for taking "law's prominence in the creation and implementation and contestation of globalization" as a starting point (Aman in print). He also notes how it is important to acknowledge that globalization is embedded in domestic and international, public and private institutions alike. Aman posits further that: "Understanding the relationship of globalization to law requires analysis of the interactions of markets, rights and bodies of law at all levels of government, domestic and international, as well as diverse processes of governance that involve norm creation, enforcement and adjudication by state and non-state actors alike," (in print 2014, with further references). He points to the pluralism and polycentricity of the law's "many rooms" (Aman in print 2014). In a context like the 21st century city, "New bodies of transnational law are developing to deal with problems that are neither wholly domestic nor comprehensively global — sometimes working through domestic law, sometimes creating new authorities" (Aman in print 2014). New practices of formal and informal modes of self-regulation emerge and voluntary regulations develop beyond the state (as part of the rescaling).[23] Understanding how denationalizing processes work, and the scale thereof, is an important part of understanding law's role in relation to globalization (and also the city). From this perspective, the public and the private city start to "make the law they believe is necessary to govern their transactions in complex transnational situations" (in reference to Aman in print 2014, on private entities).

---

21 It is assumed that there are numerous examples to be found of "movements from below" in cities across the globe, but particularly in the Global South — where citizens have turned what were originally informal democratic demands and practices into now institutionalized formal laws.

22 This is closely connected to discussions about the city and the global, as well as about spatial justice (Soja 2010).

23 "Depending upon the context, transnational law may involve domestic law, international law, some form of voluntary regulations, or various combinations of all three" (Aman in print).

Regarding the future directions that research on law and the global public city might take, Aust (2013) suggests to focus on the following four thematic approaches: (1) to develop a deeper understanding of the city as an actor in international law; (2) to further understand the legalization of the actions and interactions of cities without giving up the differentiation between law and non-law, in other words resisting the temptation toward the juridification of all actions and normative expression of cities; (3) to develop a better understanding of city actions on different levels and in networks; and, (4) to fulfil a key task of legal research, which is to critically reflect on the political agenda of cities across these levels — realizing the (substantial) risks informality can carry, and the risks of when informality becomes a general strategy of avoidance (of the state). Altogether, the points and issues raised in this paper challenge the exclusive focus on the nation-state as the locus of democracy, and as the sole object of comparative research on written and unwritten rules. Furthermore, this article has pointed out the complex legal and political role that the circulation of written and unwritten rules between different urban spaces entails, as well as the need for taking transdisciplinary approaches to explore and understand these processes and interconnections better.

Various cities and cities' networks in Europe and Asia — such as the Covenant of Mayors (EU), the C40 Cities, the Asian Network of Major Cities 21, CITYNET, and the Cities Development Initiative for Asia (on these, see Brenner 1999; Nijman 2009) — could serve as examples and case studies for those with a general interest in governance in (new) areas of limited or challenged statehood, the nexus between written and unwritten (legal) rules, sovereignty and space and the "unwritten constitutionalization" of transnational legal and political spaces. These themes strongly sympathize with "new approaches to (international) law" and perspectives from the Global South. Approaching these questions will help to further explore whether 21st century global public cities create their own pluralistic systems of written and unwritten rules, and what influence they have on the development of national, international, and transnational law — and on contemporary forms of democratic (urban) governance.[24]

References

Aman, Alfred (in print 2014): "Globalization. Legal Aspects", in: Smelser, Neil J.; Baltes, Paul B. (eds.): *International Encyclopedia of the Social & Behavioral Sciences*. 2nd ed. Amsterdam: Elsevier

---

24 In her comments during the aforementioned panel "(Democratic) Governance of Cities in the 21st Century – The 'Unwritten Constitution' within and beyond the State," Anna Katharina Mangold (Goethe University Frankfurt) asked whether there should also be impulses toward "resistance" against the "juridification" of city/societal practices, as juridification effectively leads to the polarization into law and non-law, "lawful" and "unlawful" — thus potentially giving courts the power to declare societal practices in cities to be lawful or unlawful. In light of this assumption, Mangold also asked whether the societal/social (democratic) movements of certain 21st century cities could or should be protected against forms of "legal annexation."

Aust, Helmut (2013): "Auf dem Weg zum Recht der globalen Stadt? 'C 40' und der 'Konvent der Bürgermeister' im globalen Klimaschutzregime", in: *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (ZaöRV)*, 73: 673–704

Blank, Yishai (2006): "The City and the World", in: *Columbia Journal of Transnational Law*, 44: 868–931

Berg-Schlosser, Dirk (2012): "Comparative Area Studies. Goldener Mittelweg zwischen Regionalstudien und universalistischen Ansätzen?", in: *Zeitschrift für Vergleichende Politikwissenschaft*, 6: 1–16

Brenner, Neil (1999): "Globalization as Reterritorialisation. The Re-scaling of Urban Governance in the European Union", in: *Urban Studies*, 36: 431–451

Castells, Manuel (1996): *The Information Age. Economy, Society and Culture, Volume I. The Rise of the Network Society*. Oxford: Blackwell Publishers

Const. of the Federative Republic of Brazil, Constitutional text of October 5, 1988, with the alterations introduced by Constitutional Amend. No. 1/1992 through 64/2010 and by Revision Constitutional Amend. No. 1/1994 through 6/1994

Curtis, Simon (2011): "Global Cities and the Transformation of the International System", in: *Review of International Studies*, 37: 1923–1947

De Sousa Santos, Boaventura (2005): "Two Democracies, Two Legalities. Participatory Budgeting in Porto Alegre, Brazil", in: De Sousa Santos, Boaventura; Rodríguez-Garavito, César A. (eds.): *Law and Globalization from Below, Towards a Cosmopolitan Legality, Cambridge Studies in Law and Society*. Cambridge: Cambridge University Press, 310–338

Federative Republic of Brazil, Federal L. No. 10.257 (The City Statute), 10 July 2001

Friedman, John (1986): "The World City Hypothesis", in: *Development and Change*, 17: 69–83

Friedman, John; Wolff, Goetz (1982): "World City Formation. An Agenda for Research and Action", in: *International Journal of Urban and Regional Research*, 6: 309–344

Frug, Gerald E.; Barron, David J (2006): "International Local Government Law", in: *The Urban Lawyer*, 38: 1–62

Hardt, Michael; Negri, Antonio (2000): *Empire*. Cambridge: Harvard University Press

Harvey, David (2012): *Rebel Cities. From the Right to the City to the Urban Revolution*. New York: Verso Books

Held, David (2000): "Regulating Globalization", in: Held, David; McGrew, Anthony (eds.): *The Global Transformation Reader. An Introduction to the Globalization Debate*. Cambridge: Polity Press, 420–430

Lefebvre, Henry (1996): *Writings on the City*. Cambridge: Blackwell

McGrew, Anthony (2000): "Democracy beyond Borders?", in: Held, David; McGrew, Anthony (eds.): *The Global Transformation Reader. An Introduction to the Globalization Debate*. Cambridge: Polity Press, 405–419

Nijman, Janne (2009): "The rising influence of urban actors", in: *The Broker*, 17, December 17: 14–17

— (2011): "The Future of the City and the International Law of the Future", in: Muller, Sam et al. (eds.): *The Law of the Future and the Future of Law*. The Hague: Torkel Opsahl Academic EPublisher, 213–229

Pieterse, Edgar (2008): *City Futures. Confronting the Crisis of Urban Development*. London: Zed Books

Purcell, Mark (2003): "Citizenship and the Right to the Global City. Reimagining the Capitalist World Order", in: *International Journal of Urban and Regional Research*, 27: 564–590

Rajagopal, Balakrishnan (2003): *International Law from Below. Development, Social Movements and Third World Resistance*. New York: Cambridge University Press

Robinson, Jennifer (2011): "Cities in a World of Cities. The Comparative Gesture", in: *International Journal of Urban and Regional Research*, 35: 1–23

Sassen, Saskia (1991): *The Global City, New York, London, Tokyo*. Princeton: Princeton University Press

— (2000): *Cities in a World Economy*. 2nd ed. Thousand Oaks: Pine Forge Press

— (2006): *Territory, Authority, Rights, From Medieval to Global Assemblages*. Princeton: Princeton University Press

Schroeder, Heike; Bulkeley, Harriet (2009): "Global Cities and the Governance of Climate Change. What is the Role of Law in Cities?", in: *Fordham Urban Law Journal*, 36: 313–359

Soja, Edward W. (2000): *Postmetropolis, Critical Studies of Cities and Regions*. Oxford: Blackwell Publishers

— (2010): *Seeking Spatial Justice*. Minneapolis: University of Minnesota Press

UN-HABITAT (2002): "The Global Campaign on Urban Governance", United Nations Human Settlements Programme Concept Paper, 2nd Edition