

# ILA Study Group on The Role of Cities in International Law

## Report

*Chairs: Janne Nijman (Amsterdam/The Hague/Geneva) and Helmut Aust (Berlin)*

*Rapporteurs: Jolene Lin (Singapore) and Lisa Roodenburg (The Hague)*

### *Members:*

|                              |               |             |
|------------------------------|---------------|-------------|
| Professor Helmut Aust        | Co-Chair      | German      |
| Professor Janne E Nijman     | Co-Chair      | Netherlands |
| Dr Jolene Lin                | Co Rapporteur | Singaporean |
| Dr Lisa Roodenburg           | Co Rapporteur | Netherlands |
| Dr Anouche Beaudouin         | Member        | French      |
| Dr Markus P Beham            | Member        | Austrian    |
| Dr Axel Berg                 | Member        | German      |
| Dr Ioana Cismas              | Member        | Swiss       |
| Mag Gregor Fischer           | Member        | Austrian    |
| Dr Markus Gehring            | Member        | German      |
| Dr Agata Kleczkowska         | Member        | Polish      |
| Ms Masa Kovic Dine           | Member        | Slovene     |
| Mr Robert Lewis-Lettington   | Member        | British     |
| Prof Gerd Oberleitner        | Member        | Austrian    |
| Professor Alejandro Rodiles  | Member        | Mexican     |
| Professor Mirko Sossai       | Member        | Italian     |
| Professor Yukiko Takashiba   | Member        | Japan       |
| Professor Christopher Waters | Member        | Canadian    |
| Dr Cathrin Zengerling        | Member        | German      |

## **I. Introduction**

This Study Group was formally launched at the ILA Biennial Conference in Sydney on 21 August 2018. With a mandate to examine the legal ramifications of the rise of the city as an actor on the international stage (see Section II below), this Study Group actively sought to improve its understanding of the many rapid developments in this field while advancing

research in this new area. Its work has inevitably been affected by the ongoing Covid-19 pandemic but the Study Group continued to forge ways to continue its activities and projects.

Following this brief introduction, Section II briefly sets out some background on the subject matter of the role of the city in international law and reiterates the mandate of this Study Group to focus the reader's mind on the key issues that this Study Group seeks to investigate and explore. Section III is a report of this Study Group's progress since its establishment. The progress report will first briefly summarize the key meetings of this Study Group (Section III.A). It then proceeds to situate the work of the Study Group in the context of academic work on the topic. Since the publication of the last report, a significant number of publications on the role of cities in international law has appeared. Alongside various individual journal articles and book chapters, these publications include the Elgar Research Handbook on International Law and Cities, co-edited by the Chairs of the Study Group, a monograph on the topic in French authored by former Study Group Rapporteur and current member Anouche Beaudouin as well as a recent symposium on the issue in the Italian Yearbook of International Law. The discussion in Section III.B will summarize some of the key ideas advanced in the Research Handbook as well as other publications and connect them to this Study Group's deliberations. Section III.C then proceeds to introduce a flagship project of the Study Group, the collection of City Reports. The Study Group launched the city reporting project in the fall of 2019. The city reports are intended to shed light on city practices, in particular those of local and/or subnational governments, in relation to international law, on transnational inter-city engagement, and cities engagement with international organizations like the World Health Organization (WHO) and global governance networks.

Drawing on the research gathered through the Handbook and knowledge about practice "on the ground" through the City Reports, Section III.D identifies some salient issues for further deliberation as this Study Group contemplates its future work agenda. Finally, Section IV draws some conclusions and identifies this Study Group's plans for the future.

## **II. Mandate of the Study Group**

The mandate of this Study Group is to examine the changing position and role of cities in the international legal order. This relates to the following key issues:

- What does the internationalisation of the city mean in legal terms? What are the legal implications of cities stepping up to the international stage? What is the impact of the internationalisation of the city on the international legal order? How is the changing international legal order impacting the world's cities?
- To what extent is international law starting to define the legal status and government of cities?
- Are there specific problems attached to the role of cities as objects of international law? Is the development of direct obligations for cities under international law a challenge to the traditionally held view that every state decides for itself how to implement international law?

- Have cities become accepted as subjects of international law? If not, is there a process towards recognition of such a status? And by which standards can international law measure the emergence of a new category of subjects?
- How does the emerging role of cities impact on law-making processes in international law? To what extent can cities contribute to such processes? What are the specific legitimacy concerns raised by this development?

### **III. Progress Report**

#### **A. Meetings**

##### ***A) Online working session on the progress of the city reports***

On 4 September 2020, the Study Group hosted an online working session on the progress of the city reports project. The working session was attended by both Study Group members as well as a group of authors of the city reports in order to provide for an exchange of ideas between the two groups. During the first part of the meeting, the chairs and rapporteurs of the Study Group showed a beta version of the city reports website, which intends to make the city reports available to the public. The second part of the meeting consisted of five presentations of the authors of the city reports on Graz (by Gerd Oberleitner and Gregor Fischer), Lagos (by Ohio Omiunu), Prague (by Lena Riemer), Arusha (by Eric Yankson) and Vienna (by Markus P. Beham), followed by a lively discussion.

##### ***B) Virtual launch of the ILA City Reports website***

On 12 February 2021, the Study Group hosted the launch of the city reports website through a virtual meeting. The meeting set out to present the [city reports website](#) to the participants, who consisted of Study Group members, authors of the city reports and anyone interested in the topic. The website displays an initial selection of city reports and will continue to grow as the Study Group collects new city reports. The event also included a presentation on the city report on Toruń (by Agata Kleczkowska).

##### ***C) Other activities***

The work of the Study Group was further disseminated in various other events. Study Group member Chris Waters gave a talk about the role of cities in redefining international law and international relations in the Director's Seminar Series hosted by the University of London's Institute of Advanced Legal Studies on 4 November 2021.<sup>1</sup> On 17 November 2021, the ILA Study Group co-hosted a panel discussion on "Cities and their Global Networks – Reshaping

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\* We are grateful for Jolene's contribution to the Report. She has decided to step down as Rapporteur after one term for practical considerations.

<sup>1</sup> A video recording is available here: <https://www.sas.ac.uk/videos-and-podcasts/law/director%E2%80%99s-seminar-series-role-border-cities-international-law> And/or maybe better to cite to the published paper based on the talk? <https://journals.sas.ac.uk/amicus/article/view/5416/5203>

Global Governance and International Law?”, organised by the T.M.C. Asser Institute on the occasion of the publication of the Elgar Research Handbook.<sup>2</sup> This event considerably contributed to raising awareness about the work of the Study Group. In particular, a copy of the Handbook was presented to the Mayor of The Hague, Mr. Jan van Zanen, by Janne Nijman. A panel discussion followed which featured participants from academia as well as leading international city networks such as United Cities and Local Governments (UCLG) and the pan-European coalition of towns and regions PLATFORMA. It examined the growing role of cities and their transnational networks in international law and governance.

## **B. Developments in the Scholarship on Cities and International Law**

Since the publication of the last report, the topic of cities in international law has gained further traction in the scholarly discourse. Apart from a great number of journal articles and book chapters which are too numerous to be referred to in detail here<sup>3</sup>, three publications stand out. First, former Study Group Co-Rapporteur and current Member Anouche Beaudouin published a monograph entitled *Droit international des villes* in 2021.<sup>4</sup> In her book, Beaudouin offers a systematic presentation of the role of cities in international law. Her book starts with a first part on how cities have become inserted in public international law. She analyses both how cities have formed relations among each other, transcending national frontiers, but also how international law has come to address cities as objects. This process is characterised, as her book shows, by considerable uncertainty about the instruments chosen and their connection to formally binding international law.

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<sup>2</sup> A video recording is available here: <https://www.asser.nl/education-events/events/?id=4220>.

<sup>3</sup> With no claim to completeness, new scholarship which has appeared since the publication of the last report includes: Heidi Nichols Haddad, ‘When Global Becomes Municipal: US Cities Localizing Unratified International Human Rights Law’ (2020) 31 *European Journal of International Law* 1379; Christie Swiney, ‘The Urbanization of International Law and International Relations: The Rising Soft Power of Cities in in Global Governance’ (2020) 41 *Michigan Journal of International Law* 227; Helmut Philipp Aust and Janne E. Nijman, ‘Planetary Boundaries *intra muros*: cities and the Anthropocene’ in Duncan French and Louis Kotzé (eds.), *Research Handbook on Law, Governance and Planetary Boundaries* (Edward Elgar 2021) 103; Cathrin Zengerling, ‘Städte im polyzentrischen Klimaschutzregime – Verantwortung ohne Rechtsverbindlichkeit’ (2020) 20 *Zeitschrift für Umweltrecht* 3; Shisong Jiang, ‘Marching to an International Law Powerhouse through Cities: An ideational Reflection on China’s “Belt and Road Initiative”’, in G. Martinico and X. Wu (eds.), *A Legal Analysis of the Belt and Road Initiative* (Palgrave Macmillan 2020) 221; Wanshu Cong and Frédéric Mégret, ‘“International Shanghai” (1863-1931): Imperialism and private authority in the Global City’ (2021) 34 *Leiden Journal of International Law* 915; Lisa Roodenburg and Sofia Stolk, ‘The Desire to be an International Law City: A Self-Portrait of The Hague and Amsterdam’ in Sofia Stolk and Renske Vos (eds.), *International Law’s Collected Stories* (Palgrave Macmillan 2021) 79; Miha Marcenko, ‘International Legal Collage of an Ideal City’ in Sofia Stolk and Renske Vos (eds.), *International Law’s Collected Stories* (Palgrave Macmillan 2021) 97; Agustí Fernández de Losada and Marta Galceran-Vercher (Eds.), [Cities in Global Governance From multilateralism to multistakeholderism?](#) Monografías CIDOB (2021); Elif Durmus and Barbara Oomen, ‘Transnational city networks and their contributions to norm-generation in international law : the case of migration’ (2021) *Local Government Studies*; Andrew Bodiford, ‘Cities in International Law: Reclaiming Rights as Global Custom’ (2020) 23 *CUNY Law Review* 1; Jacob Katz Cogan, ‘Cities in the Shadows of International Institutional Law’ (2021) 18 *International Organizations Law Review* 133; Katherine Schroeder, ‘Cities in International Law: The New Landscape of Global Governance’ (2021) 61 *Virginia Journal of International Law* 363.

<sup>4</sup> Anouche Beaudouin, *Droit international des villes* (mare & martin 2021).

Second. The Edward Elgar *Research Handbook on International Law and Cities*, co-edited by the Chairs of the Study Group, is to date the most comprehensive collection of research on the changing position and role of cities in international legal practice and theory. It builds considerably on the work of the Study Group which is also reflected by the significant number of its 35 chapters being written by members of the Study Group (in alphabetical order: Helmut Philipp Aust, Anouche Beaudouin, Jolene Lin, Janne E. Nijman, Alejandro Rodiles, Mirko Sossai, Yukiko Takashiba as well as former Study Group member Louis Kotzé). The Handbook begins by tracing the international legal history of cities<sup>5</sup>, before expounding on the fundamental concepts of international law that are at work in its relationship with cities today<sup>6</sup>. It also presents case studies to demonstrate how cities are reshaping international law<sup>7</sup> and explains how this interplay involves intersections with other areas of law and disciplines<sup>8</sup>.

It is beyond the scope of this report to provide a detailed summary of the Handbook. We therefore briefly introduce a few chapters with a focus on the ideas for future research that the individual chapter authors put forward.

The Handbook begins with a comprehensive introduction by the Chairs of the Study Group. They note how today's growing relationship between cities and international law started to emerge from the 1970s, as the international economy became more globalised.<sup>9</sup> In other words, cities were interacting more with the international systems, which both affected and reconstituted them.<sup>10</sup> Cities have risen to become central nodes in the global economy. Unlike other disciplines, the field of law has been slow to regard this phenomenon as an object of study, primarily because international law is traditionally a state-centric endeavour. However, cities have confirmed that they are actors relevant and contributing to international law: they proactively engage with international norms, voluntarily so in many cases, by appropriating and influencing the latter at the subnational level. Not only has this practice allowed many cities to fill governance gaps left by national administrations, but many cities are also becoming 'norm entrepreneurs'. The components and features of this relationship, as well as opportunities for future research, are explored throughout the Handbook. In the context of this report, we highlight the contributions authored by Study Group members.

Mirko Sossai<sup>11</sup> explores the "invisibility of cities in classical international law". Starting from the classical premise that international society is primarily made up of independent sovereign states and the internationally legal order principally exists for them, this chapter takes a close look at how certain cities became visible in the world of classical international law because they were treated as states in their own right or because they fell within the category of 'internationalised territories' which are autonomous entities under some form of international

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<sup>5</sup> Helmut Philipp Aust and Janne E. Nijman (eds), *Research Handbook on International Law and Cities* (Edgar Elgar 2021) Part 1.

<sup>6</sup> Aust and Nijman (n 5) Part 2.

<sup>7</sup> Aust and Nijman (n 5) Part 3.

<sup>8</sup> Aust and Nijman (n 5) Part 4.

<sup>9</sup> Helmut Philipp Aust and Janne E. Nijman, 'The emerging roles of cities in international law – introductory remarks on practice, scholarship and the *Handbook*' in Aust and Nijman (n 5).

<sup>10</sup> Helmut Philipp Aust and Janne E. Nijman, 'The emerging roles of cities in international law – introductory remarks on practice, scholarship and the *Handbook*' in Aust and Nijman (n 5).

<sup>11</sup> Mirko Sossai, 'Invisibility of cities in classical international law' in Aust and Nijman (n 3) 64.

protection, supervision or guarantees. Mirko Sossai discusses the historical evolution of Venice as a global city to illustrate how its historical arc of development contributes to our understanding of modern state formation as well as the role of international law in cities as international legal practices and norms allowed Venice to maintain its hold over its territories (thereby contributing to its recognizable sovereignty). Danzig was discussed in this chapter as an example of the establishment of free cities which made urban spaces recognizable under international law. This chapter affirms that, regardless of the different forms a city takes and various configurations of city-state relationship, international law remains the legal order of and for states. In order to break free of this conception, it is necessary to recognise the significant evolution of international society to the extent that it ought to be inclusive of all actors participating in international relations. Future research could seek to uncover historical evidence of these developments.

Yishai Blank,<sup>12</sup> one of the very first scholars writing on international law and cities, argues for the international legal personality/subjectivity of cities. This is a fundamental aspect of international law and is a sticking point in the debate about the position of cities in the international legal order. Blank stresses that cities are crucial building blocks of a desirable world order and do generate international law norms, especially given the global trend of decentralising national governments. Cities are vehicles for achieving global and international goals. They have constructed worldwide cities' networks, forged international ties, and contracted directly with international organisations to pursue developmental projects. While there may be some drawbacks to granting cities legal autonomy in the international legal order, such as weakening national redistributive mechanisms and making international coordination more tedious, these are not insurmountable problems. Further, giving cities international legal personality could promote economic efficiency, participatory democracy and stronger accountability on national-centralised governments. Thus, many actors now recognise that there are and should be a direct tie between cities and global/international entities. Moving forward, the chapter identifies that more research needs to be done on how the current trend away from globalisation impacts the role cities play in the world order; how a "bottom-up" international legal personality should be conceived; the role of international institutions in helping cities overcome state resistance to certain aspects of globalisation; and what an individual right to self-government means.

Yukiko Takashiba<sup>13</sup> points out that the engagement of cities with global policy agendas requires distinct attention because they do so on the basis of their self-identities and their source of legitimacy in local elections and administrative control over city territories. It is noteworthy that cities adopt normatively independent stances from their national governments in issue areas that are typically affected by globalization and there is little national consensus. Cities' normative assertions are also obvious when they align their policies with international legal norms in the absence of or following the withdrawal of commitments made by their national governments. Cities are also actively involved in global governance through transnational networks, lobbying and diplomacy (e.g. California's role in international climate change

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<sup>12</sup> Yishai Blank, 'International legal personality/subjectivity of cities' in Aust and Nijman (n 5) 103.

<sup>13</sup> Yukiko Takashiba, 'Sources and lawmaking' in Aust and Nijman (n 5) 121.

negotiations). In short, the practices of cities can be and have been interwoven with those of states. When it comes to the role of international law in cities, Yukiko Takashiba advances the argument that when cities refer to or use international legal norms as a normative source for their policies, it effectively removes national exclusivity in terms of who engages with the international legal order. Her chapter also identifies ideas for future research. These include more scholarly attention to the Global South and the practices of regional networks, and greater clarification of the new rules of recognition through documentation of the receptiveness of international legal regimes to inputs by cities and how cities affect the compliance pull by consolidating a ‘thick consensus’.

Jolene Lin<sup>14</sup> demonstrates how cities have become front-runners in environmental governance. Transnational municipal networks (TMNs), broadly defined, have emerged to connect cities and promulgate best practices, environmental norms and environmental governance standards. TMNs are a form of polycentric governance: because law-making is a broad social phenomenon deeply embedded in the practices and beliefs of a society and shaped by interactions within and among societies, TMNs make and implement law when cities construct and implement norms, practices and voluntary standards through TMNs. Generally, therefore, TMNs are crucial facilitators of innovative governance. In the European Union, a specific type of TMNs is promoted by multi-governance frameworks. However, in Asia, such frameworks do not exist and TMNs do not represent self-governance. Rather, TMNs in Asia tend to be the product of collaboration between regional and international organisations and local communities. They serve to close governance gaps at the subnational level and also address global governance challenges by re-distributing resources towards Asia, where there are many developing countries in need of development aid. The chapter suggests to further examination of the overall impact of TMNs; opportunities for and barriers to TMNs; and empirical studies that focus on if and how TMNs improve environmental performance.

Alejandro Rodiles<sup>15</sup> dissects what he identifies as the “global insecure counterterrorism city”. This chapter is particularly intriguing for the future conceptual work of the Study Group as it negotiates the boundary between international law in a traditional sense and more loosely organized forms of global governance. Rodiles details how the city has become a space for global regulatory activities in the fight against terrorism, but also how global security governance institutions like the Security Council and its sub-organs increasingly rely on local governance mechanisms and their expertise. Rodiles concludes that ‘contemporary counterterrorism law cannot be comprehended from a state-centric perspective and that the dynamics between the formal and the informal regulations are in constant flux.’ He also concludes that cities fulfil important functions for global security law – but that it is less clear whether this also works for the cities concerned.

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<sup>14</sup> Jolene Lin, ‘The role of transnational city networks in environmental governance’ in Aust and Nijman (n 5) 201.

<sup>15</sup> Alejandro Rodiles, ‘The global insecure terrorism city’ in Aust and Nijman (n 5), 225.

Samantha Besson and José Luis Martí<sup>16</sup> explain how cities are performing as democratic representatives in international law-making. International law is traditionally state-centric, but it is no longer clear that states can exclusively lay claim to the authority to make international law for their people. Besson and Martí observe that more subnational governments are positioning themselves as privileged and even independent representatives of their citizens on the international scene, which is also clear in their direct interactions with international organisations (e.g., the World Bank). Given this dynamic, they propose the Multiple Representation Model (MRM), which allows for numerous different representatives (i.e., states, cities, international organisations) so long as they complement each other and result in overall adequate representativeness. Specifically, cities should be given greater political legitimacy because they generally represent their citizens in an electoral, representative way. They have unique democratic strengths that compensate for and correct the democratic weaknesses the non-elected private- and public representatives, and even elected national representatives, suffer from. That said, cities do have their own democratic deficiencies, and Besson and Martí warn that cities should contribute to international law-making with greater legitimacy than thus far. For this, further research needs to be done on the precise organisation of cities with other public and private institutions to remedy cities' democratic deficits and ensure the chain of democratic representation is complete. In this way, the overall democratic legitimacy of international law can be ensured and enhanced.

Third, the Italian Yearbook of International Law has devoted a significant part of its XXXth volume to the role of cities in international law (2020, but published in 2021).<sup>17</sup> The volume includes contributions on the role of cities in and for international heritage law (Lucas Lixinski), sustainable development (Riccardo Pavoni), climate change (Christine Bakker), the right to housing (Kaara Martinez) as well as questions of the urban-rural divide (Daniel Litwin as well as Francesco Francioni). In particular, its opening article by Giuseppe Nesi traces the overall development of the discourse on the growing role of cities in and for international law. While acknowledging the importance of the topic, Nesi highlights that the connection between this growing role of cities and the traditional doctrinal categories of subjectivity, sources and the like remain elusive to him.

These recent publications – among others - show how research interest in the role of cities in international law is expanding rapidly and how the analysis of the relationship between cities and international law becomes increasingly profound.

### **C. City Reports**

Resulting from a need for empirical insights on the relation between cities and international law, the Study Group launched the city reporting project in October 2019. An ongoing call for contributions was circulated, among members of the Study Group and beyond, to collect reports at an ongoing basis. The city reports explore city practices, in particular of local governments,

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<sup>16</sup> Samantha Besson and José Luis Martí, 'Cities as democratic representatives in international law-making' in Aust and Nijman (n 5).

<sup>17</sup> The table of contents of the Yearbook is available here: <https://brill.com/view/title/61748>.

in relation to international law, on cities' engagement with other cities, international organizations and/or global governance mechanisms. The city reports are loosely based on the well-established format of country reports which have been used to explicate the performance of states in a given field of international law. Alternatively, the city reports are intended as a way to describe and analyse the practices of cities: actors that are often overlooked in international law, and that engage with international law in ways that may not always fit traditional legal frameworks.

From February 2021 onwards, the city reports have been published on an [open access webpage](#) to make this body of information publicly available to foster further research and dialogue about the role of cities in international law. The Study Group has furthermore been collecting the city reports to make them available for the deliberations of the Study Group at the ILA Lisbon conference in 2022. In a later stage, the chairs of the Study Group will consider curating a collection of city reports with a view to publication.

Thus far, the Study Group has collected reports on the following cities:

- Arusha, Tanzania by Dr. Eric Yankson
- Geneva, Switzerland by Florian Bergamin and Milène Hauri
- Graz, Austria by Gregor Fischer and Prof. Gerd Oberleitner
- Lagos, Nigeria by Dr. Ohio Omiunu
- Prague, Czech Republic by Dr. Lena Riemer
- Toruń, Poland by Agata Kleczkowska
- Vienna, Austria by Dr. Markus P. Beham
- Windsor, Canada by Prof. Christopher Waters

In addition, the Study Group has accepted abstracts and is expecting reports, on the following cities: Abuja, Nigeria; Barcelona, Spain; Berlin, Germany; Buenos Aires, Argentina; Delhi, India; Johannesburg, South Africa; Mexico City, Mexico; Mogale, South Africa; Mombasa, Kenya; Washington DC, United States.

The current collection of city reports already sheds light on a number of cross-cutting themes and insights. Evident is (1) the importance of *historical trajectories*. The city reports show that the engagement with international law is not one of recent years, but part of a longer trajectory. As the authors of the report on Geneva put it: “Geneva did not turn into an international city overnight. It was rather a long history of personal and official efforts, at both the national and international level.”<sup>18</sup> In the case of Geneva, the city emerged as an important site for international conferences and the location of headquarters of international organisations in the mid-19<sup>th</sup> century. The International Red Cross has been founded and located in Geneva since 1863. This led to more organisations establishing their headquarters in the city over the years, notably the League of Nations in 1919 and the ILO one year later. The city reports on Arusha, Lagos and Vienna likewise show that these cities have always been embraced by the

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<sup>18</sup> Florian Bergamin and Milène Hauri (2021) City Report: The evolution of International Geneva.

international, which has continued in interactions with international law today. For instance, Vienna is currently home to around 40 international organisations.

The case of Toruń alternatively shows that past international relations can be cultivated into new initiatives. Toruń was part of the Hanseatic League, an association of cities in Northern Europe, from as early as 1159 to 1669. The Hansa cities were bound by shared economic interests, in a time when international organizations did not exist yet. Today, Toruń is part of the city network “New Hansa”. The New Hansa was founded in 1980 and strives to promote cooperation between European cities, contribute to the European unity and raise cities’ awareness of their democratic role. This does not mean that the historical engagement with international law is one of a static nature. Cities are not static but change throughout time as new political affiliations emerge that indicate new political priorities, as the population and urban space grow and change, and as, in the case of for example Lagos, a process of decolonialisation takes place. Such transitions also indicate an unmistakable shift in the engagement with international law. For instance, whereas Geneva’s activities were initially centred around humanitarian law, the scope of their activities has broadened to include, amongst others, environmental protection and digitalisation.

Cities make (2) *a selection of the wide range of global norms*. The city reports display that the concerned cities do not engage with international law as an abstract concept, nor do they engage with a wide range of international legal norms. The cities affiliate themselves with a particular set of norms. It is impossible to fully grasp and describe the processes that determine such selections, although the city reports do provide some insight into this matter. Graz, for example, focuses on human rights as the city became Europe’s first human rights city in 2001. This was the result of efforts by both the Director of the Peoples’ Decade of Human Rights Education, who had already helped implement the world’s first human rights city in 1997 (Rosario, Argentina), officials of the Austrian Ministry of Foreign Affairs, and the Mayor of Graz. Hence, specific persons played a determining role in the choice for a focus on human rights. In the case of Prague, the city’s affiliation with the Pact of Free Cities results from a political struggle. Through the Pact, the involved cities strive to form a countermovement against the anti-immigration, ultra-conservative, authoritarian tendencies of their national governments by highlighting their commitment to human rights. In the case of Toruń, the city’s rich history and the protection of the memory defines its international cooperation. The city report on Toruń highlights that the majority of the city’s international practices is connected to efforts towards preservation and promotion of the City’s history and monuments, also because this offers economic benefits from being an attractive tourist destination. Toruń therefore upholds relations with United Nations Educational, Scientific and Cultural Organization (UNESCO) and is part of the network of the Organization of World Heritage Cities.

Another cross-cutting element is (3) the role of *location*. The city reports on Arusha and Geneva demonstrate that an engagement with international law and its institutions usually goes hand in hand with the development of the necessary structures: physical infrastructure and facilities for legal establishments, as well as a pool of experts. The existence of such structures enhances the strategic location of a city. In other words, an existing engagement with international law may

increase the likeliness of future activities. Moreover, there is an element of geographical location. The reports on Vienna and Lagos underline their strategic geographical locations: Vienna is conveniently located in the centre of Europe and Lagos is an important port along the West African coast, in proximity with international actors along the transatlantic trade corridor.

On the basis of the city reports, one can make a distinction between cities that (4) have *a role as host and/or as actor* in international law. In other words, a distinction between cities as a 'place' where international law is being made and performed, and cities as actors that actively position themselves vis-a-vis international law. In some of the discussed cities, such as Geneva and Vienna, the roles of host and actor go hand in hand. The cases of Graz, Toruń and Prague predominantly display cities that engage as an actor by taking part in city networks, by committing to certain norms, and by upholding relations with international organisations. In other cities, such as Arusha and Lagos, most emphasis lies on their roles as host, by providing space and infrastructures for international legal events and headquarters of international organisations. The city reports make several remarks on the lucrative position of the "host-role", since the presence of international organisations generates a substantial number of jobs and contributes to the financial flourishing of the city and the country alike. The city reports on Arusha, Lagos and Geneva explain that, as a consequence, national governments have an interest in promoting their cities to become successful as hosts.

Contrastingly, the city report on Windsor shows an absence of a formal relation with the international, despite thick informal engagement and city-diplomacy with bordering city Detroit - portraying a city without "self-conscious cosmopolitanism". The report furthermore argues that Windsor could benefit from such formal relations to adequately address issues such as transboundary pollution, climate change and a liveable cities agenda.

#### **D. Synergies between scholarship and practice**

The scholarship on cities and international law as discussed in section B for a large part sheds light on the role of cities in international law. It discusses how cities contribute to specific areas of international law, it theorises the legal personality of cities in international law, and it explains how cities have tended to be overlooked as global governance actors while trying to undo this tendency with detailed case studies of the engagement of cities in areas of global governance such as global health and climate change. There is less scholarly work on the role of international law in cities and how international law influences and shapes city activities and policies. Scholars have noted this gap as a fruitful area for future research and it is in this regard that this Study Group's city reports project as discussed in section C plays a meaningful role in bridging scholarship and practice. The city reports are written by authors who have day-to-day living experience of the cities they report on. Reflecting this perspective of being physically located in these cities and witnessing how cities reference international law in their daily practices, the city reports tend to explore the role of international law in cities. Herewith providing insight into the influence of international law on the urban reality of cities:

international norms as translated into municipal projects, city-city networks and the presence of – and relations with - international organisations.

Scholarship shows that cities proactively, and through their own initiatives, engage with international norms. Governance gaps left by national governments are hereby identified as a reason for cities to engage with international law. The city reports correspondingly display that relations between the city and international law are voluntary and desired by the cities themselves. The city report on Prague convincingly shows how international law can be used as an instrument to criticize and distance oneself from national governance frameworks. Though additionally, the city reports demonstrate that in cases national governments do have an interest in cities' engagement with the international, as for example a host role for international organisations brings about revenue. More research needs to be done on the dynamic behind an interaction between cities and international law, to get a complete grasp of the motives behind such engagements and of how this interaction reshapes cities and international law (making).

On the basis of scholarship, it is argued that more research needs to be done on understanding a “bottom-up” international legal personality as this could enable cities role in international governance. The city reports provide the nuance that cities' engagement with international law may not always take the form of actorship. In other words, in practice there is a difference between cities as a ‘place’ where international law is being made and performed, and cities as actors that actively position themselves vis-a-vis international law. Some cities may be more inclined to take a role as actor, while other cities for the most part function as important places for international law. This sparks the question what an international legal personality for cities could entail in practice given this variety of approaches in the relation between cities and international law. Or, whether the changing role of cities in international law isn't in fact challenging the formal categories of international law – including e.g. the sources of international law - to an extent that rethinking these categories is called for.

#### **IV. Outlook and way forward**

The last four years have confirmed the salience of the topic of the role of cities in international law. As the previous sections show, this issue has moved to the centre of international legal discourse and can no longer be considered as a niche topic. Increasingly, the role of cities is taken on board in discussions of international legal doctrinal issues and questions. At the same time, the scholarly engagement with the growing role of cities in international law is still very dynamic. It is taking place before vast and expanding open horizons. Accordingly, it may be premature to conclude the work of the Study Group. This could both risk missing further developments in the field and, if some kind of concluding report would include attempts at formulating guidelines, jump to conclusions about the normative implications of this development prematurely. Guidelines for the practice of cities in and for international law formulated by a Study Group would also potentially be lacking in terms of representativeness and authority, and come too soon.

Accordingly, the Study Group considers whether it is advisable to continue work and to potentially organise this future work on a different basis. A move towards a Committee would give further credence to the importance that the ILA affords to the growing role of cities in international law. Representation in the Committee through the National Branches of the ILA would also help to broaden the level of participation in its work. This would also be a crucial form of support for the ongoing project of the ILA city reports on international law. Successful as this project is, it would benefit from a streamlined participation of more members from an even more diverse geographical and methodological background.

The Study Group is looking forward to discussing the question of its further organisation and the benefits of a possible move towards a Committee in an online meeting related to the ILA conference in Lisbon in June 2022.

An important consideration for the Study Group is however the engagement of a broader membership. When suggesting the establishment of a Study Group, the co-chairs considered the ILA as a good home for this endeavour because of the ILA's potential for its global reach and the inclusion of both Global South and Global North international law colleagues. In practice, gathering members from both has been challenging largely due to practical considerations (mostly of a financial nature). While we have tried to compensate through digital meetings – also in line with Covid-measures – these considerations do also affect our reflections on how to go forward.