



INTERCULTURAL CITIES
Exploratory Workshop

URBAN CITIZENSHIP

Making places where even the undocumented can belong

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BACKGROUND PAPER¹

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1. Introduction: Citizenship in a world of multi-level governance

'Urban citizenship' is not a new idea. Its roots run deep in European history, from a time when the city state was the norm. Only with the rise of the nation state did it fade from prominence, to such an extent that it is now difficult for some even to imagine any form of citizenship which is not inseparably and solely connected to nationhood.

States are the ones that define citizenship rights and obligations, conditions for access to citizenship, and guarantee the protection of individual human rights due within the framework of international treaties and constitutional requirements. The emergence of national systems of social protection and welfare has been seen as the most viable way of protecting people against the risks associated with human existence and the functioning of market economies. Many of the entitlements under these systems apply to all those residing on the national territory, regardless of their legal status.

However, the universality of minimum social protection under state-based systems of collective solidarity has come under threat with a resurgence of illiberal populism and anti-migrant political forces. These developments are, as the next chapter demonstrates, at odds with international human rights standards and contrary to the principles of inclusive societies.

Today, cities stand out as increasingly influential actors with their own political dynamics and policies regarding human rights, anti-discrimination and inclusion. Through the exercise of their democratic powers and legitimacy, cities are embodying, in an age of diversity and mobility, a plural notion of citizenship spanning across different polities – local, national and supranational.

1. International legal framework²

¹ The views presented in this paper are those of the author and do not necessarily represent an official Council of Europe position.

² This chapter has been drafted by Elena Grüning, Council of Europe intern

Despite the fact that the European Convention of Human Rights (human right to private and family life, Article 8) and EU immigration law prohibit states from leaving migrants undocumented in the first place, demanding from states to either regularise their stay or issue a return decision (which migrants have the right to challenge), states are nevertheless confronted with many undocumented migrants, who's rights they are legally obliged to protect.

Based on the case-law of the European Court of Human Rights (ECtHR) and the European Committee of Social Rights (ECSR), undocumented³ migrants are included in the personal scope of the European Convention on Human Rights (ECHR) and the European Social Charter (ESC).

Article 14 of the ECHR states: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, **national or social origin**, association with a national minority, property, birth or other status." From this follows that undocumented migrants are to be protected by their host state in their human rights, such as their right to life (Article 2), their right to protection from torture (Article 3), from slavery and forced labour (Article 4) and the right to respect for private and family life (Article 8). Regarding the ESC, which is applied to most of the cases regarding undocumented migrants, the social rights may *in principle* be limited to those lawfully residing and the Committee does acknowledge that in some cases people unlawfully present have to be treated differently from those lawfully present, but "in so doing, **human dignity, which is a recognized fundamental value at the core of positive European human rights law, must be respected.**"⁴

In other words, "**due to their fundamental nature and their link to human dignity, certain [social] rights apply to all persons in the territory, including irregular migrants.**"⁵ From this follows that undocumented migrants have a right to shelter (Article 31), access to medical assistance (Article 13) and the right to be protected against poverty and social exclusion (Article 30), to name a few. Moreover, the Committee has emphasized the fact that "the Charter cannot be interpreted in a vacuum [and] should so far as possible be interpreted in harmony with other rules of international law of which it forms part" . Besides, the Charter also includes an article prohibiting discrimination (Article E): "The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, **national extraction** or social origin, health, association with a national minority, birth or other status."

Following are a few case examples, in which the ECSR and the ECtHR have identified social- and human right violations regarding the situation of undocumented migrants in host states. In the case of the Defence for Children International (DCI) versus the Netherlands, the ECSR identified a violation of Article 31§2 of the Charter (prevention and reduction of homelessness) and concluded that the Netherlands are obliged to **provide shelter for undocumented children**. In the same case, the Committee also concluded that under Article 17 (right of children to social, legal and economic protection), the Netherlands are obliged to provide **access to education for undocumented children**. This was justified by the negative effects on a child's life and the increase of its vulnerability when denied such access. A violation of Article 17 was also identified in the case of the

³ There is no internationally unified terminology referring to persons irregularly present on a country's territory. Both "undocumented migrants" and "irregular migrants" are being used by international organisations. ECRI' General Policy Recommendation 16 states that "irregularly present migrants" should be understood as individuals – women, men and children - present in a member State that is not their country of origin, who do not, or no longer, fulfil the conditions under national law for entry or stay in that member State. In the context of Intercultural cities the term undocumented migrants is preferred as irregular has negative undertones but throughout the document both terms will be used interchangeably.

⁴ ECSR, [Defence for Children International v. the Netherlands, Complaint No. 47/2008](#), merits, 20 October 2009.

⁵ ECHR, [Handbook on European law relating to asylum, border and immigration](#), 2014, p. 50.

International Federation of Human Rights Leagues versus France⁶ due to the denial of **access to medical assistance for undocumented children**. In the case of the European Federation of National Organisations working with the Homeless (FEANTSA) versus the Netherlands⁷, the ECSR identified a violation of Article 31§2 (prevention and reduction of homelessness) also for undocumented *adults* and concluded the Netherlands must **provide shelter for all undocumented migrants**. The Committee argues that the “extreme helplessness”, which people are exposed to through homelessness, is “contrary to respect for human dignity”. In the same case, the Committee also identified a violation of Article 13§§1 (access to medical assistance for those without adequate resources) and concluded that the Netherlands are obliged to **allow undocumented migrants to get emergency medical assistance**.

Further, the Committee argued that refusing emergency assistance to undocumented migrants violates Article 30 of the Charter (protection against poverty and social exclusion). At this stage, the Committee points out that “the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically but also in fact.” Moreover, it states that “the restriction of the personal scope of the Charter included in its Appendix should not be read in such a way as to deprive migrants in an irregular situation of the protection of the most basic rights enshrined in the Charter, or to impair their fundamental rights, such as the right to life or to physical integrity or to human dignity”. Going beyond basic social needs, the Court has even decided that the refusal to **provide legal aid** to an undocumented migrant, in this case a Congolese women wanting to contest paternity against her husband⁸, is a human right violation, violating the right to a fair trial (Article 6 § 1).

The rights of undocumented migrants are also specifically addressed by other political and monitoring bodies of the Council of Europe, repeatedly calling on governments to protect these rights. The most recent policy recommendation is that of the **European Commission against Racism and Intolerance (ECRI)** from 2016 on “safeguarding irregularly present migrants from discrimination”⁹. The Commission clearly states that “all persons, regardless of their immigration status, have human rights which must be guaranteed in law and practice, without discrimination.” The Commission specifically recommends host states to 1) decriminalise the support of undocumented migrants, 2) to inform service providers as well as undocumented migrants themselves on their rights, 3) to not require service providers to report undocumented migrants and lastly, to “pay special attention” to undocumented children and their rights. The latter was also already addressed by the **Parliamentary Assembly** in their recommendation on “undocumented migrant children in an irregular situation: a real cause for concern” in 2011¹⁰. The document begins with the following statement: “A child is first, foremost and only, a child. Only after this may he or she be seen as a migrant.” The Assembly also adopted a resolution on “Human rights of irregular migrants”¹¹ in 2006, which does not even begin to justify including undocumented migrants in the personal scope of the Convention and Charter, but rather assumes that this is understood and in fact stresses that the Convention and Charter are *all the more important* when it comes to undocumented migrants. The **Committee of Ministers** has addressed the rights of undocumented migrants in their recommendation on “mobility, migrated and access to health care” (2011)¹² as well

⁶ ECSR, [International Federation of Human Rights Leagues v. France, Complaint No. 14/2003](#), merits, 8 September 2004.

⁷ ECSR, [European Federation of National Organisations working with the Homeless \(FEANTSA\) v. France, Complaint No. 39/2006](#), 5 December 2007.

⁸ ECtHR, [Anakomba Yula v. Belgium, No. 45413/07](#), 2009

⁹ ECRI, [General Policy Recommendation N°16 on safeguarding irregularly present migrants from discrimination](#), 2016

¹⁰ PACE, [Recommendation 1985 \(2011\) Undocumented migrant children in an irregular situation: a real cause for concern](#), 7 October 2011

¹¹ PACE, [Resolution 1509 \(2006\) on human rights of irregular migrants](#), 27 June 2006

¹² CM, [Recommendation CM/Rec\(2011\)13 of the Committee of Ministers to member states on mobility, migration and access to health care](#), 16 November 2011

as in their “Twenty guidelines on forced return” (2005)¹³. In the latter, the Committee states that the guarantee, that a return decision is made only in accordance with the law, “should be afforded to all persons subject to an expulsion measure, whichever their administrative status (“lawful resident” or not)”. In the former, the Committee emphasises the need for health care specifically and especially amongst undocumented migrants. On this point, to avoid fear of being deported, the committee recommends that health care providers should not be required to ask for documents and/or report undocumented migrants. The **Commissioner for Human Rights** has also published numerous statements and comments on the situation of undocumented migrants and calls for policy changes to protect their rights. For example, in June this year the Commissioner called on the Hungarian authorities to drop the bill criminalising services that in their words “facilitate illegal immigration”¹⁴. In 2015¹⁵ and again in 2016¹⁶, the Commissioner commented on the situation of undocumented migrants in various European countries, criticizing for example the way many migrants are left “in limbo” for several years, are detained in prisons with actual criminal law detainees, are deported automatically at the age of 18 or are denied access to basic social assistance, including shelter, food, clothing and urgent medical assistance as well as to education or justice. The Commissioner especially stresses the need to decriminalise immigration and the support provided to those undocumented, as do the CM and the ECRI. Fear of deportation seems to be one of the main barriers for accessing social assistance as well as legal support, the latter being directly related to the protection from exploitation and human trafficking.

Protecting the rights of undocumented migrants is therefore not only a moral, but in fact a *legal* obligation. Given Europe’s current situation and the reality of the many undocumented people living in Europe, the Convention and the Charter must be (and have been up to this stage) interpreted in the light of this new situation without discriminating on resident status. Ideally, a separate and clear statement on the rights of undocumented migrants will be formulated and a specific instrument dealing with these rights will be adopted.

2. The Reason Cities Intervene

Benjamin Barber pointed out in ‘If Mayors Ruled the World’:

“The politics of the city have a very different character to the ideological politics of the nation. [They] are about making things work - you’ve got to pick up the garbage, you’ve got to keep the hospitals open, it doesn’t matter if the immigrants are legal or illegal - they have children who get sick and who have to go to school, they ride buses, they drive cars. If you asked a mayor, ‘Do you think immigrants should be allowed in or not?’ they’d say ‘They are here.’” (Barber, 2103)

So the call for urban citizenship is not simply a rhetorical flourish but a grounded and pragmatic campaign to make the best of the conditions we are in, for the benefit of the widest majority of people.

¹³ CM, [Twenty guidelines on forced return](#), September 2005

¹⁴ Commissioner for Human Rights, [Hungary: Commissioner concerned at further planned barriers to the work of NGOs assisting migrants](#), June 2018

¹⁵ Commissioner for Human Rights, [Without papers but not without rights: the basic social rights of irregular migrants](#), August 2015

¹⁶ Commissioner for Human Rights, [Migrants in limbo in Europe have the right to live in dignity](#), November 2016

2.1. Dimensions of Urban Citizenship

However, we cannot deny that the term ‘urban citizenship’ can be read and interpreted in more than one way according to the priorities of different interest groups and so our first step should be to reveal and clarify its core dimensions. Drawing upon the discipline of Citizenship Studies (Bauböck 2003, Bosniak 2003, Varsanyi 2006, Gebhardt 2016b) there are three clearly defined dimensions of urban citizenship: status, rights, and place/ identity.

2.1.1. Status dimension

We are now seeing growing numbers of cities providing residents with a status (such as formal residency or a municipal identity card) that unlocks access to city services, regardless to the status accorded to them by national government. This is the case in Spain where the *Padrón* is a list of all the people who live in a certain town and are registered on a list with the local town hall. Because registration only requires a passport and proof of domicile, but not a residence permit, it offers both a symbolic local membership and formal access to municipal services. Several cities, including Madrid, have experimented with elevating this to a more explicit form of urban citizenship, but the most effective has been Barcelona (Gebhardt, 2016b).

Meanwhile Utrecht seeks to connect asylum seekers to the city from the day of arrival. By offering them all (regardless of national status) language lessons, entrepreneurial classes and general education the city departs from the general Dutch policy of only acknowledging those with formal status (Oomen, 2017). Paris recently introduced a *carte citoyenne* which gives all Parisians access to municipal services. The card is modelled on the IDNYC, the identity card of the city of New York and many years of experimentation in the United States (De Graauw, 2014).

2.1.2. Rights dimension

It should come as no surprise that an abstract concept of human rights should be finding its most effective practical application at the level of the city. It was 60 years ago that Eleanor Roosevelt, as Chair of the UN Commission on Human Rights stated:

*'Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.'*¹⁷

One interesting aspect of the way in which cities are now shaping citizenship, is the degree to which they often refer to cosmopolitan norms, such as international human rights law, in setting out and defending their positions. The mayor of Palermo, for instance, is a strong advocate of the recognition of mobility as an inalienable human right. Palermo’s ‘International Human Mobility Charter’ serves as the basis for migrant welcome and integration.

More widely, urban citizenship is in line with a trend of increasing numbers of ‘human rights cities’, which base their urban policies on international human rights law, often taking a more progressive

¹⁷ Excerpt from a speech by Eleanor Roosevelt at the presentation of “IN YOUR HANDS: A Guide for Community Action for the Tenth Anniversary of the Universal Declaration of Human Rights.” Thursday, March 27, 1958. United Nations, New York.

stance than national governments. 400 cities have signed the European Charter for the Safeguarding of Human Rights in the City and forerunners, such as Dublin, Barcelona and Nuremberg, have human rights offices and engage in human rights monitoring. There are other international networks of cities which offer recognition, for example The International Cities of Refuge Network (ICORN) for cities which offer shelter to writers and artists who are vulnerable to censorship, harassment, imprisonment and death, because of what they do.¹⁸

ICC member Mexico City went a step further when it embedded interculturalism in its Federal Constitution, which is the highest legal order of the nation. Approved in 2017, the Constitution emphasises the diverse nature of Mexico City inhabitants, declares the city as intercultural along with its linguistic and ethnic diversity based on both its indigenous people and the migrants, and establishes guiding principles based on human rights and human dignity.

2.1.3. Place and Identity dimension

If one accepts that rights are not simply conferred upon us from above, but must be created and maintained through our exercise and defence of them, this then introduces the dimension of the spatial. These rights are exercised (or denied) in the streets, squares and neighbourhoods that constitute our cities through our presence in them. People are raising the fundamental questions of who belongs in the city and who has a right to the city? (Lefebvre, 1996) For a long time the idea of ownership of urban land and property has been a dominant factor but, with the hyper-mobility of capital, we are now seeing cities where the major owners have no presence or little allegiance beyond their own stake. Parts of many major cities, for example, are becoming devoid of people, trade and culture because their sole purpose has become the accrual of property value for their absentee owners. This threatens the core purpose of cities and their potential decline and must thus be challenged with the concept of the 'right to the city'. (Darling, 2017)

Migrants, on the other hand, have a very visible presence in the city often with a defining stake in the maintenance of public and private services, and yet many of them are denied any rights of citizenship by national government (Bosnia, 2007). Projects such as the Immigrant Youth Justice League in Chicago have campaigned to establish 'safe spaces' within sanctuary cities where people will be free from harassment either from oppressive groups or the authorities (Swerts, 2017).

2.2. The Rationale for City Intervention

Spenser and Hughes (2013) and Delvino (2017) provide the most persuasive explanation of why cities seek to include irregular migrants in these emerging forms of residential citizenship.

He acknowledges that cities are legal entities obliged to abide by their constitutional mandates and that, in many countries, there are **legal obligations** placed upon local authorities to take care of the most vulnerable, for example in the UK (Price & Spencer, 2015). Cities also recognise obligations under international human rights law, which is an argument regularly made by Utrecht.¹⁹

In a related vein are cities who they have **ethical and humanitarian** reasons which mean they cannot overlook the needs of vulnerable people within their remit. This is the justification cited for many of the interventions (often in partnership with NGOs and health professionals) which cities make to ensure basic standards of health care are maintained for their undocumented residents.

¹⁸ <http://www.icorn.org/>

¹⁹ Statement by Utrecht city officials reported in Delvino, 2017.

The last point above also demonstrates that local authority thinking straddles ethics and pragmatism, so cities will also argue that they must act in cases of dire need because their **general policy goals** include a responsibility to maintain public order and safety. Delvino reports that officials of Barcelona have made this case to dismantle an irregular settlement and rehouse people in temporary accommodation.²⁰

Finally, in a related vein, Delvino quotes the example of Florence which cites **service efficiency and cost effectiveness** as a justification for intervention. In this case the city took responsibility for accommodating irregular migrants who had recovered from medical treatment, in order to prevent them remaining unnecessarily in hospital beds that were required by needier patients (Delvino, 2017).

3. What Cities Are Doing

According to the three dimensions of urban citizenship identified above, this section reviews some of the major strands of activity being undertaken by local authorities and others.

3.1. Status: residency as the basis for recognition and rights

At the foundation of current thinking on urban citizenship is that nation states do not hold the monopoly on the sovereign right to grant citizenship. It is argued that cities and local communities have their own legal principle from which to offer citizenship to residents, deriving from the ancient European principle of *ius domicilli* (Bauböck, 2003; Varsanyi, 2006). In essence, it includes non-nationals yet excludes nationals living outside of the city limits, from accessing certain rights and services offered by the municipality.

Ironically, when applied to the contemporary reality of hyper-mobility and undocumented migration, this has found its strongest expression in the United States, though it is also very much alive in Spain, for example.

3.1.1. Resident registration

The Spanish *Padrón* is a list of all the people who live in a certain town and are registered on a list with the local town hall. Because registration only requires a passport and proof of domicile, but not a residence permit, it offers both a symbolic local membership and formal access to municipal services. Several cities, including Madrid, have experimented with elevating this to a more explicit form of urban citizenship, but the most effective has been Barcelona (Gebhardt, 2016b).

The city of Barcelona has used this as the foundation upon which to construct a comprehensive policy grounded in human rights and Interculturality, of which the primary elements are

- Active local registration of all migrants in the *Padrón*)
- The avoidance segregation from the moment of arrival.
- Enabling access to mainstream services to all migrants, including the undocumented (including health and education but not housing apart from emergency shelter for vulnerable people)

²⁰ Spencer, S (2013) *City Responses to Migrants with Irregular Status*. Integrating Cities Conference, Tampere, Finland, 9-10 September. https://www.compas.ox.ac.uk/wp-content/uploads/PB-2013-034-City_Responses_Irregular_Migrants-1.pdf

- An ethos that a undocumented today is a documented person of tomorrow.
- Vigorous Welcoming policies
- Participation of NGOs and Labour Unions in partnership with the authorities.
- Universal and free access to language learning.
- Adaptation of services to the changing qualitative and quantitative reality of residents.
- Removal of all barriers to access (linguistic, legal etc.)
- Specific policies for target groups in order to provide real equal opportunities.²¹

Specifically, the *Padrón* is an ordinance regulated by Spanish national legislation (*Ley de Bases de régimen local*). It is a head count that applies to every resident on Spanish territory and registration is compulsory. The register is held by local authorities and enables them a reliable knowledge of the demographics of their jurisdictions, proving invaluable in the planning of public services such as schools. Once registered a person receives the local status of being a 'neighbour' and that confers certain rights, which each locality can choose to interpret according to its own preferences, but which Barcelona gives the broadest of interpretations. Through collaboration with NGOs and neighbourhood groups the local authorities proactively seek out new arrivals and encourages *Empadronament*²², even in cases where a person has no fixed abode.

Sophisticated checks have now been introduced to ensure it cannot be used fraudulently or to shelter criminals and this has served to reinforce trust in the system from authorities, host community and migrants. It is now universally recognised as legal proof of the date that a person arrived in the country and became a citizen of Barcelona.

3.1.2. Local ID cards

The expression of *ius domicilli* based citizenship has taken a rather different but no less decisive form in the United States through the development of local ID or membership cards. They have been introduced with the aim of encouraging a sense of belonging, as well as rationalising access to a wide range of public and private services. Some of these initiatives were introduced with the express intention of helping and engaging with undocumented migrants, whilst in other cases it has been a secondary benefit (Sena, 2018)

The first place to introduce such a card was New Haven, Connecticut in 2007, with the Elm City Residents Card. The city had experience massive population growth over a short period and the Mayor's primary motivation was to discover more about the new demographic character. There was deliberate use of the term 'resident' to forestall any stigma that might be attached to 'i.d.' From the outset it was promoted through businesses such as corner shops who saw it as a sales advantage. It has become the principal card for school identification but can be used for a wide variety of purposes ranging from people being released from prison to car parking and discount at car dealerships. So far, in a city of 131,000, a total of 14,000 card have been issued. The authorities consider it has particularly enabled refugees to avoid stigma when claiming benefits, and has given them a greater sense of identification with their new home.

Currently the largest scheme in the US (or anywhere else) is in New York. The IDNYC card was introduced in 2014 by Mayor De Blasio as an accessible and secure document enabling all residents to access City services and grant admission to City buildings, such as schools. In addition, the card

²¹ From the presentation given by Ramon Sanahuja (Director of Assistance and Welcome of Immigrants for Barcelona City Council) at the Council of Europe workshop *Urban Citizenship: Making places where everyone can belong*, 28-29 November 2018, in Botkyrka, Sweden.

²² http://dps.gencat.cat/WebAcollida/AppJava/ca/Menu_Principal/Legislacio/Empadronament.jsp@pag=tc_m_393-87590-64&pagindex=tc_m_393-87589-64.htm

can be presented as proof of identification for interacting with the police and is an accepted form of identification for opening a banking account at select financial institutions, and is also accepted at any public library in New York. Furthermore, a number of additional benefits are available to cardholders including the opportunity to sign up for free one-year memberships at 40 of the city's leading museums, zoos, concert halls, and botanical gardens. It also offers discounts on movie tickets, sporting events, prescription drugs, fitness and health centres, supermarkets, and New York City attractions.

It is currently held by 1.3 million people – or 1 in 8 of the population – and has been taken up by about half a million undocumented migrants. It has also been adopted by many other people with the primary purpose of showing solidarity with migrants. The city is extremely proactive, employing a team of community engagement workers to visit neighborhoods to encourage take-up. There are 25 languages of preference, and 15 local offices where people can enroll.

The card offers a unique identity number, photograph and barcode and has so far been subject to minimal acts of fraud. The programme is not cheap, costing about \$19 million per annum to run, but the city authorities consider this a small price to pay for the high levels of solidarity and participation it engenders. The city authorities are also pleased to learn that many holders feel a greater sense of belonging through the card (Daly, 2016).

Take-up of the ID card idea is only now starting to gather momentum in Europe. Paris has been first in the field deciding, after the terror attacks of 2015, to put citizen participation at the centre of its mission. Mayor Hidalgo wanted Paris to demonstrate a generosity of spirit in contrast to the anger of the national mood, so a *Carte Citoyenne* was launched as the symbol of a city open to the world – modelled on the IDNYC²³. Any resident can have one from their 7th birthday. It has been promoted primarily for use by school children, then by social housing renters and also by undocumented migrants. So far 200,000 (10% of the population) have taken up the card. However local factors have determined that it takes a somewhat different form from its American inspiration. Firstly, the demographics of the two cities are very different and so, because central Paris is largely populated by people of middle to upper class background, it is these socio-economic groups which have been first to take up membership. Secondly, the competences of local government in France are much less than American counterparts, so the range of services offered through the card are diminished. The next step for the *Carte Citoyenne* management team is to try and promote its uptake in the outer ring of municipalities of metropolitan Paris, where most of the *banlieues* and people of migrant background may be found.

Switzerland has also been an enthusiastic adopter of new ideas. The *Cheque Emploi* is a social protection system for workers. It facilitates access to accident insurance, family allowances and unemployment benefits and generates a record of work experience for those who ask for the status to be legalised and need to prove they are not dependent on social aid. Special effort has been taken by cantons to make it available to working non-documented migrants.²⁴

Switzerland is also showing great interest in ID cards as a means to build solidarity between host communities and the undocumented and both Zurich and Bern are expected to introduce one soon. The Swiss capital is introducing the Bern City Card although the initiative was taken by a NGO rather than the municipality (Berner Beratungsstelle für Sans-Papiers). Inspired by New York it facilitates access to health, bank and school services for undocumented migrants. The main challenge is how to

²³ <https://www.paris.fr/cartecitoyenne>

²⁴ <https://www.cheques-emploi.ch/> & <https://www.eper.ch/project-explorier/cheques-emploi>

ensure that the card is adopted by all citizens and not seen as the sole preserve of undocumented migrants.²⁵

The case of Zurich is also notable as the impulse to introduce a card has come not from the local authority, but from a long-term grassroots campaign of civil society in the face of initial municipal skepticism. The local authority finally accepted the merits of the argument in October 2018 and has now granted itself a two year period to develop a 'Züri-City Card' which will have the following target users and purposes:

- Undocumented migrants in Zurich (opening the possibility to identify themselves to authorities, gain access to services, and participate in social life by reduced fees for culture, sport and education).
- Large parts of the regular residents of Zurich (offering reduced fees for cultural services, sense of belonging to the urban community, development of a certain urban identity, practised solidarity with undocumented migrants).
- Urban administration (hospitals, police, schools with the aim of delivering their services more efficiently).
- Private and public institutions (such as swimming pools and libraries).²⁶

3.1.3. Technological innovations in determining identity

There is growing concern that centralised, paper-based ID systems such as birth certificates, driving licences and degrees can easily be lost, forged or misused, and this has started a search for more 'resilient' forms of documentation, particularly through breakthroughs in technology. Most recently, hundreds of thousands of Rohingya people were driven out of Myanmar, many losing all forms of identification in the process. Using blockchain-based technology, the Dutch start-up company Tykn is trialling the use of digital identity cards that aim to help Rohingya in Malaysia, Bangladesh and Saudi Arabia access services such as banking and education. The hope is that successful trials might lead to a system that can help the community across Southeast Asia.

Under the scheme, a blockchain database is used to record individual digital IDs, which can then be issued to people once they have taken a test to verify that they are genuine Rohingya. Tykn's goal is to give Rohingya the power to reclaim their identities with a resilient system that their host countries will recognise, allowing them access to social programmes, legal rights, education and healthcare. At this stage, the Rohingya Project's main objective is to address the most prominent issue facing stateless peoples: financial exclusion. This is but one example of many groups of refugees and stateless peoples around the globe who are harnessing the power of blockchain technology to reclaim their identities (Thayer, 2018).

3.2. Rights: participation and access to services

Whilst the state is generally assumed to be the main bestower of rights, cities are increasingly taking the position of backstop, in response to what they may perceive to be the dereliction of duty by national government, or in direct response to situations which present, and demand attention, within their own jurisdictions. Necessity has been the mother of considerable invention in this field.

²⁵ <https://wirallesindbern.ch/city-card/>

²⁶ From the presentation given by Bea Schwager, Head of Sans-Papiers contact point, Zurich, at the Council of Europe workshop Urban Citizenship: Making places where everyone can belong, 28-29 November 2018, in Botkyrka, Sweden.

3.2.1. Charters and Campaigns

Cities who have chosen to support irregular migrants or to go further and advocate for urban citizenship, often accept a responsibility to use their voice to influence public and political opinion – at the local, national and international levels.

Delvino (2017) quotes the Barcelona city statute *Mesura de govern per afavorir l'accés a la regularitat i prevenir la irregularitat sobrevinguda*²⁷ which empowers the city to promote legislative amendments at national and international levels. Meanwhile Utrecht focused its strategy on challenging the Dutch government before the European Committee for Social Rights (see below).

Over 400 cities have signed the European Charter for Safeguarding of Human Rights in the City, and many of these also participate in advocacy networks such as EUROCITES, URBACT AND of course Intercultural Cities.

3.2.2. Local voting rights

Perhaps the fundamental symbol of one's membership of a community and one's right to participate equally within it is the exercise of the right to vote. There is a vigorous debate in the United States over whether undocumented migrants should have any right to participate in local electoral processes. Though it remains illegal for any non-citizen to participate in federal and state elections, federal law leaves it up to the states to decide who can vote in local or special elections. Non-citizens currently can vote in some local elections in 11 states.

To date, there is no record of an undocumented immigrant who has recently crossed the border and cast a vote in one of these elections. However, there is a campaign for allowing undocumented immigrants to vote in school board elections, arguing they have a right because it affects their children's futures, or that those on a path towards citizenship should be encouraged to feel themselves part of their local community (Hayduk & Coll, 2018). Switching to the picture in Europe, only two EU member states grant non-EU nationals the right to vote in national elections, whilst 15 grant voting rights to this group at local level (Groenendijk 2008).

3.2.3. Health

Whilst national governments routinely deny health care to the undocumented, cities take a more pragmatic and compassionate view. For example, it is in the interest of no citizen to allow outbreaks of serious illness in the city because one section of residents have been denied access to basic hygiene or care. As such many cities now cooperate with public health agencies and NGOs to provide basic services at their own cost.

Intervention can take many forms. The local authority in Düsseldorf has negotiated with local health care professionals to provide low-cost services to people without a residence permit, and has created a fund to subsidise fees. In Poland the health care system is financed from a national insurance programme which excludes undocumented migrants, thus limiting their entitlement to emergency care only. City officials in Warsaw have decided it is not in the wider interest of public health to risk having large numbers of people in such a position so it has voted public funds to enhance the service. These grants now fund 40% of the activities of an NGO, Doctors of Hope, which operates a health clinic with volunteer doctors who in 2015 treated around 8,000 residents who lacked health insurance. (Smith & LeVoy, 2017)

²⁷ Available at: <http://www.bcn.cat/novaciutadania/pdf/mgrregularitat.pdf>.

3.2.4. Education

Whilst the majority of EU Member States entitle irregular migrant children to attend school, the implementation of the entitlement is often piecemeal and at the discretion of local authorities or even individual schools. All the schools in the Belgian town of St Niklaas contribute to a solidarity fund to enable any of their number to initiate special activities on behalf of undocumented pupils. Nearby in Ghent the city issues bus passes to all school children including the undocumented. 'Learning without papers' (*Leren Zonder Papieren*) scheme in Amsterdam assists undocumented families to purchase the materials they need to participate on an equal basis in the city's schools (Delvino, 2017)

3.2.5. Housing and shelter

Housing and shelter is a competence which does not always fall within the remit of local authorities, yet it is a fundamental requirement of newly-arrived or vulnerable people. This presents a challenge to local authorities who wish to demonstrate their solidarity with the undocumented and they are often obliged to respond with ingenious or oblique measures. Thus Dublin exploits the lack of explicit Irish national legislation to provide emergency shelter without having to ask direct questions of peoples' status²⁸. In a similar vein, Genoa interprets ambiguities in Italian legislation to extend support to the undocumented, whilst other cities might well stick to the letter of the law.²⁹

Other city authorities work through sympathetic NGOs to avoid falling into conflict with their legal limitations or with national government. Many Dutch municipalities have found it effective to work through the International Network of Local Initiatives with Asylum Seekers, which channels funds to local foundations to provide appropriate shelter. (Geddie, Schmidt-Hieber, Keith & LeVoy, 2014)

3.2.6. Legal action

By definition the undocumented are identified by the state and society by their lack of legal status and so it is no surprise that sympathetic local authorities feel obliged to address the issue directly. This may be through ameliorating the pressing needs of those facing incarceration or deportation or it may be part of a more strategic campaign to enable people to achieve formal status, or to achieve changes to the law.

The city of Utrecht prides itself on its record of protecting its undocumented migrant residents from forced deportation by the Dutch state. Over the period 2002-2018 it reports a 92% solution rate, as follows:

- 59% legalized and integrated into Utrecht society
- 19% voluntarily reconnected to their countries of origin
- 13% given the right of shelter in a national asylum centre.
- 8% declared illegal and forcibly deported.³⁰

Utrecht, of all cities, has sought to work at all levels of the legal framework from international and national judicial institutions to local law enforcement to shift the balance of power in favour of the undocumented. One remarkable example of this is its 'win your case by losing it' strategy, whereby the City refused a plea for accommodation (in line with Dutch national practice) knowing that a complaint would be lodged for denial of basic rights. This led the European Committee of Social

²⁸ Dublin City official, interviewed by Sarah Spencer, May 2013 quoted in Delvino, 2017.

²⁹ Genoa City official quoted in Delvino, 2017

³⁰ From the presentation given by Niene Oepkes, Senior Policy Advisor, City of Utrecht, at the Council of Europe workshop *Urban Citizenship: Making places where everyone can belong*, 28-29 November 2018, in Botkyrka, Sweden.

Rights to declare the Dutch state in breach of its obligations under the European Social Charter. This set a precedent which gave Utrecht greater leeway for future operation (Delvino, 2017).

3.3.Place and identity

This third category acknowledges the sense of local belonging that many residents (and in particular immigrant communities) derive from their cities. Particularly in countries where nationality is routinely denied, we recognise a human need to emotionally identify with a place-based institution, and cities are filling the gap.

3.3.1. Places of belonging

This has been manifested through city branding strategies, or by campaigns counteracting negative public discourse. Barcelona's anti-rumour campaign, enlists citizens and civil society in the process of neutralising myths about immigrants. We might also consider campaigns such as 'I Amsterdam' or 'Engage in Copenhagen', which have sought to give an all-encompassing welcome and identity to all who reside in those cities.

Whilst nation states may be abstract 'imagined communities' local polities have far more tangible meaning to their residents. Many cities have sought to demonstrate this through resident opinion surveys, and the table below is a compendium of 16 of these in north-western Europe. The clear message is that whilst a majority of people express stronger identification with their city than their country, this is more pronounced when the respondent is of a migrant background.

The Identity Advantage of the Urban Polity (Gebhardt, 2016b)

City	Group	Strong identification with	
		City%	State%
Frankfurt	Residents with migration background	80	36
Amsterdam	Young adults of...		
	Surinamese origin	74	61
	Turkish origin	82	72
	Moroccan origin	82	69
Barcelona	Whole population	76	68
Madrid	Whole population	90	88
Amsterdam	2nd generation of	69	42
Rotterdam	Moroccan origin	74	44
Antwerp	Whole population	64	50
Brussels	Whole population	58	48
Berlin	Whole population	72	40
Hamburg	Muslim residents of one	66	52
Antwerp	neighbourhood	88	75
Copenhagen	in each	81	73
Amsterdam	city	84	79
Rotterdam	Whole population	74	66

3.3.2. Places of sanctuary

On both sides of the Atlantic there is a growing 'sanctuary' movement wherein localities declare themselves as places of refuge for the undocumented and vulnerable, often in contradiction of their national governments. Whilst these cases are many and varied, and many of their activities could be categorised within the domains of status, rights and participation outlined above, they can equally be considered as important exercises in granting a sense of local identity and belonging to displaced people.

Places in the United States which adopt the term "sanctuary city" are jurisdictions which have adopted policies designed to limit cooperation with, or involvement in, federal immigration enforcement actions. There are now more than 300 state and local jurisdictions that do not honour requests from Immigration and Customs Enforcement to detain individuals. The goal of the constellation of informal and formal policies is generally to protect undocumented immigrants who are not otherwise engaged in criminal activity from being detained or deported (Ridgeley, 2012)

There is no single definition for a sanctuary city. The Los Angeles Police Department, for example, said after the 2016 election that it would continue its policy of not allowing police to stop people solely to establish their immigration status. San Francisco Mayor Edwin Lee has created a fund to provide legal services to the immigrant community, documented or otherwise. So has Chicago, as well as passing a "Welcoming City Ordinance," stating the city will not help investigate the citizenship status of individuals unless mandated by law or a court, will not discriminate issuing city services depending on citizenship and will not cooperate with immigration detentions. Furthermore 12 states and the District of Columbia have laws allowing undocumented immigrants to obtain driver's licenses.

Cities in the UK have many fewer powers and competences than their American counterparts and thus the UK City of Sanctuary movement should not be confused with its near namesake. Nevertheless, it fulfils a valuable role in grounding people in a place they can identify with.

The first place in the UK to declare itself a City of Sanctuary was Sheffield in 2007, with the support of the City Council and over 70 local community organisations. Since then, City of Sanctuary UK, the umbrella organisation, has supported the development of a network of over 100 groups, which includes villages, towns, cities and regions across the UK. Its mission is to build a culture of welcome, hospitality and inclusiveness, so that wherever people seeking sanctuary go they will feel safe, find people who welcome them and understand why they are here, and have opportunities to be included in all activities. It draws upon large numbers of individuals prepared to open their homes or organisations to vulnerable people. Its work falls into a series of 'streams', the most active of which are the Arts, Health, Gardens, Maternity, Schools and Universities.³¹

Whilst one of its most important roles is to lobby Parliament and politicians it has not engaged directly in trying to redefine the legal status of undocumented migrants at the local level. The limited powers of British municipalities and the widespread acceptance of a highly-centralised state has so far determined that urban citizenship has not yet been a priority for discussion within the movement thus far.

4. The Risks of Urban Citizenship

While the urban citizenship philosophy unites disparate, fragmented policies and provides a compelling framework for addressing ethnic and cultural diversity, it comes with a number of risks. As Barber stated, cities are pragmatic and rarely set out to create ideological conflict with their nation states. Nevertheless, as the scale and pace of global mobility mounts, there arise increasing numbers of situations where the positions – and political majorities – in states and some cities, do not align. At least one commentator sees growing evidence of the national state extending its reach in several countries at the expense of the city (Gebhardt, 2016a).

But, as this paper has outlined, cities are finding increasing numbers of non-confrontational ways in which to avoid or reinterpret statutes which they find incompatible with their values. If this trend cannot be managed with skill and forbearance by all sides, then the prospect of conflict will grow. (Dimitroula, 2016)

Not all commentators consider conflict a risk, but rather an opportunity, as seen by the growing movement around 'rebel cities' (Harvey, 2012) and 'fearless cities'.³²

Without substantial commitments to granting all residents rights and status, urban citizenship can appear like little more than empty words – especially if a national authority digs in its heels. In crafting an urban citizenship-inspired approach, local policymakers should therefore play to their strengths, by:

- recognising residency as the basis of access to city-controlled services,
- looking for opportunities to plug the gaps in national services wherever possible, and
- seeking local ways to involve in policy-making diverse groups who are poorly represented in traditional institutions.

³¹ From the presentation given by Colleen Molloy, National Development Officer of UK City of Sanctuary, at the Council of Europe workshop Urban Citizenship: Making places where everyone can belong, 28-29 November 2018, in Botkyrka, Sweden.

³² <https://www.opendemocracy.net/fearlesscities>

Finally, we should be very clear here that whilst an intercultural city is a welcoming city, it must be very much more than that. Ultimately, if urban citizenship is to thrive it must be seen to act for the many and not just as a defender of the few. It must offer hope to all those who feel their way of life has been disrupted or hollowed out by rapid change – including those who might find the migrant a convenient scapegoat for this. Otherwise it risks driving still greater numbers into the embrace of nativism and populism.

For example, many of the initiatives cities are now taking to defend undocumented residents from harassment and deportation by state authorities rely upon the deployment of ingenious, but also expensive, legal research and argument. In the short term this can be seen to be necessary and effective, but there may be longer term and cumulative dis-benefits. One is the danger of a legal ‘arms race’ in which competing sides raise the stakes, at escalating cost to the public purse, and in which competitiveness becomes the primary purpose of the exercise. A second related concern is that there is a growing perception that the courts and legal process are transforming from a place of last resort for the resolution of dispute, into the primary means. Whilst the empirical background to this may be debatable, the perception alone has been strong enough to fuel the growing populist accusation that democracy is being corralled by experts and technocrats. Certainly in a rights- and rules-based society the law must be the ultimate defender of the vulnerable, but if it is exercised to excess, or in place of other forms of socio-political discourse, it may ultimately generate deep and implacable opposition. The message should be that other means should be considered and exhausted before turning to the law.

Ultimately, in order to minimise the risks and maximise the potential of urban citizenship, cities should not only extend citizenship rights to all those present on their territory, but should also seek to cultivate sense of belonging, fight discrimination and ensure equality and social justice, and foster trust in institutions by being exemplary in terms of good governance (transparency, accountability and responsiveness).

5. Conclusion

This paper has attempted to provide a snapshot of a rapidly changing and expanding field and is therefore far from comprehensive in its coverage. As point 4.1.3 above reminds us, there is continuous innovation – in technology, policy and the law – in response to the dramatic events and movements of our age. The main point of this paper, and the Botkyrka workshop, is to emphasise that neither the diversity of national contexts or the apparent complexity of grappling with institutional inertia, should be a source of discouragement.

Wherever one is starting from may never seem like the right place – but the key thing is just to start. This can begin with a conversation and then an experiment and finally a movement which reshapes the culture and the common sense. Where this happens, the law and constitutional practice will eventually follow.

At this stage it is more important to frame the right questions than to expect ready-made answers. The mere fact of asking the question ‘who belongs?’ or ‘who is a citizen here?’ begets a conversation that may never have been had before and from there begins the processes of evolving collective solutions rather than imposed diktats. The presence of representatives of national and international government bodies, as well as civil society and business, alongside city politicians and officials, emphasises that this must move beyond desperate or rear-guard measures to a common endeavour and a shared achievement on behalf of not just the most vulnerable of our citizens, but them all.

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