DESIGN CHALLENGES FOR HUMAN RIGHTS CITIES

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INTRODUCTION

In mid-November 2016, shortly after the results of the presidential election were confirmed, political scientist Benjamin Barber presciently opined that "[c]ities are going to become the most important, constructive alternative to a Trump agenda."[1] Barber acknowledged that it might be difficult for a single city, acting alone, to stand up to the federal government.[2] But working together, he observed, cities have tremendous power, particularly because in combination they represent the majority of Americans who voted against a Trump presidency.[3] Indeed, according to the U.S. Census Bureau, at the beginning of 2017, two thirds of the mayors from the 100 largest cities in the United States were registered Democrats.[4]

In crafting alternatives to federal policies, however, city mayors act in a tradition that has not always resulted in the expansion of human rights. History underscores that there is nothing inevitably progressive about city politics.[5] For example, in 1961, the

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   1.   Max de Haldevang, *"Cities will be a Powerful Antidote to Donald Trump": Social Scientist Benjamin Barber on the Emergence of a New Urban Radicalism*, QUARTZ (Nov. 15, 2016), https://qz.com/837383/cities-will-be-a-powerful-antidote-to-donald-trump-social-scientist-benjamin-barber-on-the-emergence-of-a-new-urban-radicalism/.

   2.   *Id.*

   3.   *Id.*

   4.   List of Current Mayors of the Top 100 Cities in the United States, BALLOTPEDIA, https://ballotpedia.org/List_of_current_mayors_of_the_top_100_cities_in_the_United_States (last visited Sept. 30, 2017) (information drawn from U.S. Census data).

   5.   Paul Diller, *Intrastate Preemption*, 87 B.U. L. REV. 1113, 1120–21 (2009) (noting that "city policymaking does not necessarily tilt in any particular ideological direction" and citing examples).

city manager of Newburgh, New York promoted a harsh plan of welfare benefit cuts that violated both state and federal law, arguing that the low-income residents of the town were "moral chiselers and loafers."[6] Similarly, in Buffalo, New York in the 1970s, several successive mayors vigorously opposed school desegregation, thwarting federal court orders and prolonging litigation over the issue.[7] Yet the American political spectrum has become more polarized in the ensuing decades, reflected in a more dramatic split between rural America, which tends to hold conservative values, and urban America, which tends to hold liberal values.[8] In rural areas, residents can perhaps imagine that they are self-sufficient and that their individual welfare may be secured without government assistance.[9] In contrast, most city dwellers and city leaders understand that their own rights may be contingent on the government's provision of basic services, if not to themselves, then to the neighbors with whom they share the urban space.[10]

As a practical matter, given the scope of their responsibilities, city leaders have tremendous opportunities to advance human rights. Among other things, cities must deliver water, sewage treatment, trash removal, road maintenance, public transportation, public safety, and education to their residents.[11] For good or ill, whether or

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6.   KAREN TANI, STATES OF DEPENDENCY: WELFARE RIGHTS AND AMERICAN GOVERNANCE, 1935–1972 6 (2016) (quoting Joseph McDowell Mitchell, City Manager, Newburgh, NY, Address (1961) (transcript available in the Elizabeth Wickenden Papers at the Wisconsin Historical Society)).

7.   STEVEN TAYLOR, DESEGREGATION IN BOSTON AND BUFFALO: THE INFLUENCE OF LOCAL LEADERS 116–18 (1998).

8.   Emily Badger, *The Real Reason Cities Lean Democratic*, CITYLAB (Nov. 15, 2012), http://www.citylab.com/politics/2012/11/political-map-weve-been-waiting/3908/; *see also* Lazaro Gamlo, *Urban and Rural America are Becoming Increasingly Polarized*, WASH. POST (Nov. 17, 2016), https://www.washingtonpost.com/graphics/politics/2016-election/urban-rural-vote-swing/ (explaining the recent urban–rural vote polarization); Dante J. Scala & Kenneth M. Johnson, *Political Polarization Along the Rural-Urban Continuum? The Geography of the Presidential Vote, 2000–2016,* 672 ANNALS AM. ACAD. POL. & SOC. SCI. 162, 168–70 (2017) (exploring variations in political attitudes and voting patterns between urban and rural as a continuum rather than a polarization).

9.   Badger, *supra* note 8.

10.   *Id.*; *see also* Christopher M. Huggins & Jeffrey S. Debies-Carl, *Tolerance in the City: The Multi-Level Effects of Urban Environments on Permissive Attitudes,* 37 J. URB. AFF. 255, 259 (2015) ("[C]ities have significant effects on their residents net of demographic composition.").

11.   *See, e.g., Explaining Federal, State and Local Government Responsibilities in Virginia,* FAIRFAX CTY. VA., http://www.fairfaxcounty.gov/dmb/

not they explicitly acknowledge it, cities and city leaders are addressing a wide range of human rights in their day-to-day operations, generally with minimal federal oversight and decreasing levels of direct financial support.[12] Some U.S. cities have gone further to make their human rights commitments explicit, joining a host of international cities and regions in declaring themselves to be human rights cities that will take human rights norms into account in setting city policy.[13]

However vigorously and overtly city leaders take on the task of realizing their constituents' human rights, there are structural challenges baked into the governance structure of the United States that may impede cities' capacities to act. State pre-emption is one threat to city laws and policies in many substantive areas.[14] Almost two decades ago, Professor Gerald Frug wrote about the ways in which states could frustrate cities' efforts to address the welfare of urban residents by using zoning laws to diffuse local power to the

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federal-state-local-government-responsibilities.pdf (describing responsibilities at each level of government). Each of these functions is generally encompassed within the economic and social rights framework. *See* G.A. Res. 2200A (XXI) (Dec. 16, 1966).

    12.   *See* Meghan Randall et al., *Federal Aid to Local Governments*, URBAN INST.   1–2   (Sept.   2016),   http://www.urban.org/sites/default/files/2016.09. 07_state_of_cities_fact_sheet.pdf (noting decreasing levels of direct per capita federal support for cities since the 1980s and describing the various ways in which federal agencies defer to localities in the administration of aid and grants).

    13.   *See* STEPHEN MARKS ET AL., HUMAN RIGHTS CITIES: CIVIC ENGAGEMENT FOR SOCIETAL DEVELOPMENT (2008), http://www.pdhre.org/ Human_Rights_Cities_Book.pdf (providing general background on human rights cities); *Washington, D.C., Human Rights City Resolution*, AM. FRIENDS SERV. COMM., https://www.afsc.org/resource/washington-dc-human-rights-city-resolution (last visited Sept. 16, 2017) (stating that, in the United States, Washington, D.C., is a human rights city); Mark Noack, *Mountain View Signs Up As Human Rights City*, MOUNTAIN VIEW VOICE (Dec. 23, 2016), https://www.mv-voice.com/print/ story/2016/12/23/mountain-view-signs-up-as-human-rights-city   (showing   that Mountain View, California, is also a human rights city); *see also* CITY OF MOUNTAIN VIEW CITY COUNCIL, COUNCIL REPORT: HUMAN RIGHTS CITY DESIGNATION, CITY OF MOUNTAIN VIEW (Dec. 13, 2016); Kenneth Neubeck, *In a State of Becoming a Human Rights City*, *in* GLOBAL URBAN JUSTICE: THE RISE OF HUMAN RIGHTS CITIES 240 (Barbara Oomen et al. eds., 2016) (listing other human rights cities in the United States, including Boston, Pittsburgh, and Chapel Hill).

    14.   *See* NAT'L LEAGUE OF CITIES, CITY RIGHTS IN AN ERA OF PREEMPTION: A STATE BY STATE ANALYSIS 1 (2017) ("[S]tate legislators have stricken down laws passed by city leaders in four crucial areas of local governance: economics, social policy, health and safety.").

suburbs.[15] Instances of state pre-emption have only expanded since then, with states overriding local living wage regulations, municipal civil rights laws, tobacco regulations, and many other local initiatives.[16]

In the human rights arena, city policies may face an additional set of impediments. If the courts have deemed the federal government to occupy a field in which a city is also developing policies, the prospect of federal pre-emption raises a separate set of challenges beyond state pre-emption.[17] Because the federal government exercises authority over the nation's foreign affairs, federal challenges may be particularly acute for cities that have formally incorporated international human rights norms into their local laws and policies.[18]

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15.   GERALD FRUG, CITY-MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS 3–4 (1999). More recently, state pre-emption was the issue when the State of Texas passed legislation designed to restrict local governments from limiting their information-sharing with the federal government. *See, e.g.,* Marievel Santiago, *Sanctuary Cities Officially Banned in Texas as SB4 Becomes Law,* KXAN (May 8, 2017, 7:56 AM), http://kxan.com/2017/05/07/gov-greg-abbott-signs-sanctuary-cities-bill-on-facebook-live/ (discussing passage of the ban on sanctuary cities in Texas).

16.   *See, e.g.,* Alan Blinder, *When a State Balks at a City's Minimum Wage,* N.Y. TIMES (Feb. 21, 2016), https://www.nytimes.com/2016/02/22/us/alabama-moves-to-halt-pay-law-in-birmingham.html (discussing a proposal in Alabama to ban local minimum wages); David A. Graham, *North Carolina Overturns LGBT-Discrimination Bans,* ATLANTIC (Mar. 24, 2016), http://www.theatlantic.com/politics/archive/2016/03/north-carolina-lgbt-discriminationtransgender-bathrooms/475125/ (discussing the North Carolina General Assembly's overruling of a local ordinance in Charlotte that bans discrimination against LGBT people); Rob Waters, *Soda And Fast Food Lobbyists Push State Preemption Laws To Prevent Local Regulation,* FORBES (June 21, 2017), https://www.forbes.com/sites/robwaters/2017/06/21/soda-and-fast-food-lobbyists-push-state-preemption-laws-to-prevent-local-regulation/#47371149745d (discussing the attempt of the food industry to introduce a bill in New Mexico banning local taxes on sugary drinks).

17.   *See generally* Stephen Gardbaum, *The Nature of Preemption,* 79 CORNELL L. REV. 767, 771 (1994) (describing pre-emption as a "jurisdiction-stripping" concept). *See also* American Ins. Ass'n v. Garamendi, 539 U.S. 396, 413 (2003) (invalidating a California state law addressing Holocaust-era insurance claims because "at some point an exercise of state power that touches on foreign relations must yield to the National Government's policy").

18.   *See, e.g.,* Robert Stumberg, *Preemption & Human Rights: Local Options after Crosby v. NFTC,* 32 L. & POL'Y INT'L BUS. 109, 125–27 (2000) (describing the breadth of the *Crosby* holding's impact on federal pre-emption in foreign affairs, *infra* note 141); *see also* Cinthia Fischer, *Federal Preemption and South African Sanctions: A Survival Guide for States and Cities,* 10 LOY. L.A.

In instances where a mayor or city council is intent on derogating from human rights norms, such as the Buffalo desegregation example cited above, such structural impediments may be important speed bumps.[19] Given the national commitment to civil rights and local pressures to conform to these standards, the Buffalo mayors' efforts to preserve the city's formal desegregation policies ultimately failed.[20] But, when mayors are attempting to expand urban human rights beyond a federal baseline—for example, by implementing the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)—both the shadow of federal pre-emption rules, as well as their actual application, may discourage city leaders from implementing human rights-expanding initiatives in ways that benefit their constituents and connect them with other like-minded international actors.[21]

This Article does not suggest a new doctrinal theory for addressing this governance dilemma. Instead, in this Article, I work through the thought experiment of looking at cities' structural governance relationships and the impacts of those arrangements through the lens of law and design.[22] I posit that the project of tailoring city, state, and federal relationships to maximize human wellbeing can fruitfully be framed as a "design challenge."[23] Just as

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INT'L & COMP. L. REV. 693, 737–38 (1988) (discussing federal pre-emption and state regulation relating to foreign affairs).

19.   *See* TAYLOR, *supra* note 7.

20.   *Id.*

21.   *See, e.g.*, Recent Cases, *New York Court of Appeals Holds That State Oil and Gas Law Does Not Preempt Town Zoning Ordinances Banning Hydrofracking.* — Wallach v. Town of Dryden, *16 N.E.3d 1188 (N.Y. 2014)*, 128 HARV. L. REV. 1542, 1550–51 (2015) (describing chilling effect of imprecise pre-emption doctrine); Lori Riverstone-Newell, *The Rise of State Preemption Laws in Response to Local Policy Innovation*, 47 PUBLIUS: J. FEDERALISM 403, 420 (2017) (noting chilling effect of state pre-emption activity); *see also* Kriston Capps, *A Florida Mayor Fights the Gun Lobby*, CITYLAB (Jan. 6, 2017), https://www.citylab.com/equity/2017/01/a-florida-mayor-fights-the-gun-lobby/512345/ (noting intended chilling effect of local gun law pre-emption).

22.   Design and law is an emerging field. For more background, see Margaret Hagan, LAW BY DESIGN, http://www.lawbydesign.co/en/home/ (last visited Sept. 20, 2017). The NuLawLab at Northeastern University School of Law has pioneered the integration of design perspectives into law school education. For more information, see *About the Lab*, NULAWLAB, http://nulawlab.org/about (last visited Sept. 30, 2017). On the emergence of law labs in law school settings, see Martha F. Davis, *Institutionalizing Legal Innovation: The (Re)Emergence of the Law Lab*, 65 J. LEGAL EDUC. 190 (2015).

23.   Gerald Frug also uses the language of design in his analyses, though he does not draw on the tools of design thinkers to inform his approach. *See, e.g.*,

cities today view issues of transportation, water delivery, and recreation access as issues to be addressed through design processes, so might cities approach their structural human rights challenges as systems that can be re-designed or designed-around in order to support the human rights advancement of city residents and visitors.[24] Further, to the extent that the design lens can bring a broader range of interested groups to the table—notably the business interests that have often opposed local innovations, and perhaps state actors seeking to be national thought leaders—it may help to break down the current clash of policy approaches.[25]

This Article is in five parts. Following this Introduction, Part I briefly describes the human rights cities movement in the United States, setting out both the innovations and challenges that are part of these local human rights initiatives.[26]

Part II examines the understanding that design insights and approaches are relevant to city governance, including legal analyses of governance structures.[27] The central insight of the "design thinking" movement is the concept of human-centered design as a process that can be successfully applied beyond product development,

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Gerald Frug, Louis D. Brandeis Professor of Law, Harvard Law Sch., The Architecture of Governance (Oct. 21, 2010), (transcript available at https://law.utexas.edu/colloquia/archive/papers-public/2011-2012/10-06-11_Frug_The%20Architecture%20of%20Governance.pdf).

24.   *See, e.g.*, Edward-Isaac Dovere, *New Orleans Mayor Attacks Trump's 'Narrow, Myopic View'*, POLITICO MAG. (June 27, 2017), http://www.politico.com/magazine/story/2017/06/27/the-president-of-the-united-mayors-of-america-215311 (indicating that Mayor Landrieu of New Orleans "wants to be the leader of the Workaround," rather than wait for the federal government to act on issues like health care and infrastructure spending).

25.   *See* NAT'L LEAGUE OF CITIES, *supra* note 14 (describing the policy impasse); *see also* Riverstone-Newell, *supra* note 21, at 420 ("[T]he surge of state preemption activity during the last several years shows no signs of waning and is, if anything, increasing in scope and intensity.").

26.   For a collection of studies providing an overview of the international human rights cities movement, see generally GLOBAL URBAN JUSTICE: THE RISE OF HUMAN RIGHTS CITIES, *supra* note 13.

27.   This was the approach adopted by Gerald Frug in his celebrated lectures on the architecture of governance, honored in the Stirling Memorial competition. *See, e.g.*, Greg DiBella, *Professor Gerald Frug Wins Award from The Canadian Centre for Architecture and the LSE, will give the Stirling Memorial Lectures*, HARV. L. TODAY (Oct. 4, 2010), https://today.law.harvard.edu/professor-gerald-frug-wins-award-from-the-canadian-centre-for-architecture-and-the-lse-will-give-the-stirling-memorial-lectures/. For background on the physical and esthetic aspects of city design, see generally EDMUND BACON, DESIGN OF CITIES (1967).

an idea that is increasingly integrated into the modern policy generation.[28] I argue that a "law and design" perspective also provides important theoretical and practical tools for examining governance challenges facing human rights cities.[29]

Part III identifies two major design challenges facing cities as they seek to implement human rights norms. While there are many horizontal challenges involved with local human rights implementation, I focus here on two vertical challenges: (1) the vertical challenge of local engagement in international human rights institutions; and (2) the vertical challenge of hierarchical federalism, particularly state and federal pre-emption.[30]

Part IV examines approaches to these challenges suggested by the law and design perspective, including design thinking approaches. Notably, human-centered design approaches may require re-thinking the international human rights project, as well as revising the role of cities in a federal system.[31] A brief Conclusion

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28. *See, e.g.*, Michael Mintrom & Joannah Luetjens, *Integrating Design Thinking into Policymaking Processes Offers Great Value for Citizens and Government*, LSE IMPACT BLOG (Nov. 8, 2016), http://blogs.lse.ac.uk/impactofsocialsciences/2016/11/08/integrating-design-thinking-into-policymaking-processes-offers-great-value-for-citizens-and-government/ (discussing the benefits of design thinking on policymaking).

29. For two overviews of the design thinking process and its application outside of traditional design settings, see TIM BROWN, CHANGE BY DESIGN: HOW DESIGN THINKING TRANSFORMS ORGANIZATIONS AND INSPIRES INNOVATION (2009); TOM KELLY & DAVID KELLY, CREATIVE CONFIDENCE: UNLEASHING THE CREATIVE POTENTIAL WITHIN US ALL (2013).

30. The horizontal challenges facing human rights cities, including the full range of city-level challenges to human rights implementation, are also significant. Several cities have adopted the human rights city designation, but have been slow to develop a human rights plan. For example, when the Mountain View, California, City Council voted to become a human rights city, a simultaneous motion "to implement a human rights policy analysis framework as a tool to analyze the impact of policy decisions focusing on the priority areas of housing displacement, housing affordability, social equity, and economic prosperity" failed. CITY OF MOUNTAIN VIEW, CITY COUNCIL MEETING MINUTES: JOINT MEETING OF THE CITY COUNCIL (REGULAR) AND THE SHORELINE REGIONAL PARK COMMUNITY (SPECIAL) 9 (Dec. 13, 2016), https://mountainview.legistar.com/MeetingDetail.aspx?ID=452527&GUID=8BC9B226-90CB-4EA3-AB02-8F062541C678&Options=&Search.

31. If cities are to be labs for innovation, they will need flexibility within the federal framework to test different approaches to city, state, and national challenges. *See* Ben Seigel & Brooks Rainwater, *Preemption Prevents Innovation: We Must Not Let States Squash Local Policy Experimentation*, U.S. NEWS (Mar. 6, 2017), https://www.usnews.com/opinion/op-ed/articles/2017-03-06/cities-and-states-preemption-battles-curb-innovation-needed-under-trump.

summarizes the earlier sections and outlines suggestions of next steps for addressing these design challenges.[32]

I. HUMAN RIGHTS CITIES

A. Background

Around the world, human rights cities (HRCs) are local governments that have affirmatively incorporated elements of international human rights norms into their city policies.[33] The People's Movement for Human Rights Learning (PDHRE) launched the first formal effort to develop and promote HRCs in 1993.[34] The first official HRC was Rosario, Argentina,[35] where city police adapted human rights principles to inform their interactions with local lesbian, gay, bisexual, transgender, and queer (LGBTQ) residents. As the number of HRCs has grown—to include cities such as Vienna, Austria; York, United Kingdom; and Gwangju, South Korea—more formal international networks have developed. Since 2001, the Barcelona-based organization United Cities and Local Governments (ULGC) has convened local government representatives to discuss human rights implementation as part of the World Social Forum.[36]

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32.   *See infra* Conclusion.

33.   *See* MARKS ET AL., *supra* note 13.

34.   *The Human Rights Cities Movement: A Brief History,* U.S. HUMAN RIGHTS NETWORK, https://www.ushrnetwork.org/sites/ushrnetwork.org/files/the_human_rights_cities_movement_introduction.pdf (last visited Sept. 30, 2017). The People's Movement for Human Rights Learning was formerly named the People's Decade for Human Rights Education. When the group changed its name, it retained the existing acronym, PDHRE. *See People's Movement for Human Rights Learning (PDHRE),* ESCR-NET, https://www.escr-net.org/member/peoples-movement-human-rights-learning-pdhre (last visited Sept. 10, 2017).

35.   Shulamith Koenig, *In Your Hands – The Realization of a Dream,* 4 SOCIETIES WITHOUT BORDERS 247, 248.

36.   The UCLG's mission is "[t]o be the united voice and world advocate of democratic local self-government, promoting its values, objectives and interests, through cooperation between local governments, and within the wider international community." *About Us,* UNITED CITIES & LOCAL GOV'TS, https://www.uclg.org/en/organisation/about (last visited July 18, 2017) [hereinafter UCLG]. In 2011, the UCLG spearheaded the drafting of a global charter on local human rights. *See The Global Charter-Agenda of Human Rights in the City at the World Social Forum,* UNITED CITIES & LOCAL GOV'TS (Jan. 27, 2011), https://www.uclg-cisdp.org/en/news/latest-news/global-charter-agenda-human-rights-city-world-social-forum. U.S. municipalities do not appear to be represented in the leadership of this worldwide organization, which includes North American representation from Canada. *See Structure,* UNITED CITIES &

Beginning in 2011, Gwangju has hosted an annual World Human Rights Cities Forum, bringing together local human rights representatives from around the world.[37]

At the initial 2011 Gwangju Forum, an HRC was defined as "both a local community and a socio-political process in a local context where human rights play a key role as fundamental values and guiding principles."[38] This framework is intentionally broad and inclusive, and cities have adopted a range of practices and policies to address human rights on the community level.[39] In Europe, for example, Vienna has a human rights coordinator,[40] and individuals in York have worked collaboratively to develop human rights indicators.[41] In Canada, Montreal's ombudsman focuses on human rights implementation by responding to individual concerns.[42]

The United States hosts a number of HRCs. Boston, Washington, D.C., Pittsburgh, and Mountain View, California, are among the U.S. cities that have formally embraced the HRC label.[43]

LOCAL GOV'TS, https://www.uclg.org/en/organisation/structure (last visited July 18, 2017).

37. *Invitation to the Forum*, WORLD HUMAN RIGHTS CITIES F. 2016 (Mar. 26, 2016), https://whrcf2016.wordpress.com/.

38. GWANGJU DECLARATION ON HUMAN RIGHT CITY para. 4 (May 16–17, 2011), https://www.uclg-cisdp.org/sites/default/files/Gwangju_Declaration_on_HR_City_final_edited_version_110524.pdf.

39. For an overview of approaches, see GLOBAL URBAN JUSTICE: THE RISE OF HUMAN RIGHTS CITIES, *supra* note 13, including chapters on Austria, Canada, the Netherlands, the United States, Mexico, and Ghana. *See also* HUMAN RIGHTS CITIES AND REGIONS (Martha Davis et al. eds., 2017) (including case studies on the Netherlands, Austria, Sweden, and the United States).

40. *Human Rights Office of the City of Vienna*, CITY OF VIENNA, https://www.wien.gv.at/english/social/integration/project-work/human-rights-city/office.html (last visited Sept. 30, 2017).

41. *Current Work: York Human Rights*, YORK: HUMAN RIGHTS CITY, http://www.yorkhumanrights.org/current-work/ (last visited Sept. 30, 2017).

42. OMBUDSMAN DU MONTREAL, https://ombudsmandemontreal.com/en/ (last visited Sept. 30, 2017). *See generally* Benoît Frate, *Human Rights at a Local Level: The Montréal Experience*, *in* GLOBAL URBAN JUSTICE: THE RISE OF HUMAN RIGHTS CITIES, *supra* note 13 (describing Montreal's experience as a human rights city).

43. On Boston, see City Res. 0563, Bos. City Council, April 13, 2011 Meeting (Bos. 2011), http://meetingrecords.cityofboston.gov/sirepub/mtgviewer.aspx?meetid=51&doctype=MINUTES (last visited Aug. 27, 2017). On Washington, D.C., see *Washington D.C. Human Rights City Resolution*, AM. FRIENDS SERV. COMM., https://www.afsc.org/resource/washington-dc-human-rights-city-resolution (last visited Aug. 27, 2017). On Pittsburgh, see *Human Rights Days of Action Spring 2015*, PITTSBURGH HUMAN RIGHTS CITY ALL., https://pgh-humanrightscity.wikispaces.com/Z+Human+Rights+Days+of+Action+Spring+2015 (last visited

Other cities, like San Francisco and Chicago, have stopped short of broad HRC declarations but have explicitly incorporated human rights norms into their city governance; San Francisco adopted CEDAW as its municipal law, and Chicago committed to upholding the Children's Rights Convention.[44] Finally, many cities have taken steps that have the effect of implementing human rights norms without specifically invoking human rights language. For example, sanctuary cities in the United States are essentially defending human rights principles in the face of national resistance, but generally do so without explicitly citing human rights.[45] In Europe, cities such as Utrecht, The Netherlands, and Barcelona, Spain, do cite human rights as a basis for welcoming refugees and other immigrants.[46] In the United States, sanctuary cities have more typically cited law enforcement best practices as a basis for such policies.[47] Nevertheless, even when U.S. cities do not explicitly embrace human rights as a

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Sept. 10, 2017). On Mountain View, see Mark Noack, *Council Votes to Make Mountain View A Human Rights City*, MOUNTAIN VIEW VOICE, (Dec. 20, 2016) https://www.mv-voice.com/news/2016/12/20/council-votes-to-make-mountain-view-a-human-rights-city.

44.   *CEDAW Ordinance*, CITY & CTY. OF S.F., http://sfgov.org/dosw/cedaw-ordinance (last visited Sept. 30, 2017); BLUHM LEGAL CLINIC, NW. UNIV. SCH. OF LAW, TOOLKIT FOR THE ADOPTION OF THE CONVENTION ON THE RIGHTS OF THE CHILD BY CITY COUNCILS AND STATE LEGISLATURES, at 3 (2009).

45.   For example, Philadelphia officials defended the city's sanctuary policy without reference to human rights. *See* Aubrey Whelan, *Kenney to Trump Administration: Our Sanctuary Policies are Legal*, PHILA. INQUIRER (June 22, 2017),   http://www.philly.com/philly/news/politics/presidential/sanctuary-city-trump-kenney-legal-20170622.html. On human rights protections for non-citizens, see, e.g., *The Boston Principles on the Economic, Social and Cultural Rights of Non-Citizens*, NE. UNIV. SCH. OF LAW, http://www.northeastern.edu/law/academics/institutes/phrge/publications/boston-principles.html (last visited Sept. 10, 2017) (outlining the human rights principles that the Boston Principle espouses for noncitizens).

46.   *See, e.g.*, *Cities Welcome Refugees: Utrecht*, EUROCITIES (Sept. 23, 2015), http://www.eurocities.eu/eurocities/news/Cities-welcome-refugees-Utrecht-WSPO-A2MJKV (mentioning that Utrecht considers itself a "human rights city" and provides food and shelter to thousands of asylum seekers migrating into the city); Ignasi Calbo et al., *Barcelona: City of Refuge*, OPEN DEMOCRACY (Sept. 26, 2016), https://www.opendemocracy.net/mediterranean-journeys-in-hope/cameron-thibos-ignasi-calb-ram-n-sanahuja/barcelona-city-of-refuge (interviewing the Director of Welcome Policies for Migrants of the Barcelona City Council, who stated that refugee policy is "a matter of human rights").

47.   *See, e.g.*, Whelan, *supra* note 45 (discussing that the Philadelphia police policy is to treat immigrants like citizens).

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legal construct that creates local obligations, human rights norms may play a rhetorical role as a framing device for such city policies.[48]

B. Innovations and Challenges

International human rights law was developed by and for nation states, with little attention to the issues that local governments might face as they sought to implement human rights norms.[49] Because of this, both human rights advocates and local officials have had to create their own paths as they adapt human rights law to the local level.[50] Local advocates have been an active part of this process, using many of the same techniques developed by advocates working on the national and international levels. Shadow reporting is one example. In the international sphere, when the U.S. government submits a periodic report to a U.N. human rights monitoring body, such as the U.N. Human Rights Council, U.S. advocacy groups typically submit their own Shadow Reports to the same body.[51] These Shadow Reports critique the official U.S. report and provide the international monitoring body with additional information about human rights compliance on the ground.[52]

At the city level, some advocacy groups have used similar reporting techniques to critique local human rights compliance. For instance, in Washington, D.C., advocates established a non-governmental Steering Committee to monitor the city's compliance

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48.   *See, e.g.*, Victoria Rossi, *Sanctuary Cities and the Way We Fight for Human Rights*, AUSTIN CHRON. (Feb. 10, 2017), https://www.austinchronicle.com/news/2017-02-10/sanctuary-cities-and-the-ways-we-fight-for-human-rights/ (explaining that the city of Austin, TX and its law enforcement are working towards asserting its sanctuary city policies).
49.   Helmut Aust, *Shining Cities on the Hill? The Global City, Climate Change and International Law*, 26 EUR. J. INT'L L. 255, 256 (2015) (stating that cities are not recognized as subjects of international law); *see also* Janne Nijman, *The Future of the City and the International Law of the Future*, in The LAW OF THE FUTURE AND THE FUTURE OF LAW 213, 221–23, 226–27 (Sam Muller et al. eds., 2011), https://www.fichl.org/fileadmin/fichl/documents/FICHL_11_Web.pdf (arguing that the globalization of cities will require changes in international law, including greater access of cities to international institutions).
50.   The history of San Francisco's CEDAW ordinance and the leadership of WILD for Human Rights in its enactment is instructive. *See* Stacy Lozner, *Diffusion of Local Regulatory Innovations: The San Francisco CEDAW Ordinance and New York City Human Rights Initiative*, 104 COLUM. L. REV. 768, 777–79 (2004).
51.   *See* Eric Tars, *Human Rights Shadow Reporting: A Strategic Tool for Domestic Justice*, 42 CLEARINGHOUSE REV. 475 (2009).
52.   *Id.* at 476–78.

with its 2008 resolution declaring Washington, D.C. as the first U.S. HRC.[53] The Steering Committee issues periodic reports evaluating the city's efforts and seeking to encourage greater human rights awareness and compliance from the local government.[54]

In a strategic use of external governance hierarchies, some local advocates use U.N. reporting processes to bring outside pressure to bear on local governments by directing international attention to local human rights issues. For example, advocates in Chicago made successful use of international mechanisms to gain attention to police misconduct in the city.[55] Likewise, leapfrogging over state and federal authorities, residents of Detroit worked with U.N. Special Procedures to direct international attention to the city's household water policies.[56]

At the same time, some local governments have expanded on this review process, inviting international attention to their human rights successes and constructive critiques of their challenges. The San Francisco Department of the Status of Women, for example, has developed its own ad hoc international connections by participating in meetings of the U.N. Commission on the Status of Women.[57] Berkeley, California has also submitted its own Shadow Reports to U.N. bodies, reporting on local human rights implementation.[58] At

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53.   *See, e.g.*, *2015 DC Human Rights Report with Appendices*, AM. FRIENDS SERV. COMM., https://www.afsc.org/resource/2015-dc-human-rights-city-report-appendices (last visited July 18, 2017) (presenting the findings of a report on Washington D.C.'s progress as a human rights city).
54.   *Id.*
55.   Noah Berlatsky, *At the United Nations, Chicago Activists Protest Police Brutality*, ATLANTIC (Nov. 17, 2014), https://www.theatlantic.com/national/archive/2014/11/we-charge-genocide-movement-chicago-un/382843/. *See also* Tars, *supra* note 51, at 478–80 (describing the use of shadow reporting by Chicago advocates).
56.   *See, e.g.*, *In Detroit, City-backed Water Shutoffs 'Contrary to Human Rights,' Say UN Experts*, UN NEWS CTR. (Oct. 20, 2014), http://www.un.org/apps/news/story.asp?NewsID=49127#.WV-Ni4jytPY (describing the visits of U.N. Special Rapporteurs to investigate Detroit's policies regarding household water shut-offs); *UN Experts to Discuss Detroit Water Shutoffs*, CBS DETROIT (Oct. 20, 2014), http://detroit.cbslocal.com/2014/10/20/un-experts-to-discuss-detroit-water-shutoffs/ (noting that "[g]roups opposing the shutoffs appealed to the UN for support").
57.   *See Women's Human Rights*, CITY & CTY. OF S.F., http://sfgov.org/dosw/womens-human-rights-0 (last visited Sept. 30, 2017) (describing Department participation in U.N. Commission meetings).
58.   *See* Ann Fagan Ginger, *Public Comment: Reporting to the UN Human Rights Committees*, BERKELEY DAILY PLANET (Feb. 25, 2010),

times, the U.S. government also encourages more direct connections between international bodies and local actors, inviting mayors and other local officials to join international delegations participating in U.N. monitoring processes.[59] Nevertheless, even while expanding the content of human rights compliance reporting to include subnational developments, the federal U.S. government retains firm control over the official human rights reports submitted to U.N. bodies.[60]

As attention to local human rights implementation has grown, advocates have sought to increase inter-city coordination of this local work. Human rights city organizers in the United States have convened two national gatherings focused on HRCs—the first in Pittsburgh in 2015 and the second in Washington, D.C. in 2016—and have established the National Human Rights Cities Alliance.[61] The Bringing Human Rights Home Lawyers' Network, convened by the Columbia Human Rights Institute, also hosts a State and Local Working Group that serves as a clearinghouse for information and strategies for local human rights development.[62]

Still, while advocates are actively collaborating, local governments themselves have been less inclined to develop a national network explicitly focused on human rights. This is not due to a lack of capacity; U.S. cities are adept at forming networks. Many cities

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http://www.berkeleydailyplanet.com/issue/2010-02-25/article/34726?headline= Reporting-to-U.N.-Human-Rights-Committees--By-Ann-Fagan-Ginger.

59.   *See, e.g.*, Christopher Smart, *SLC Mayor Addresses U.N. Council, Talks Marriage, Homelessness*, SALT LAKE TRIB. (Mar. 17, 2014), http://archive.sltrib.com/article.php?id=57693839&itype=CMSID (reporting on Salt Lake City's mayor's participation in U.N. hearing as part of U.S. delegation); Joseph Bryant, *Birmingham Mayor William Bell Heading to Geneva, Switzerland for UN Human Rights Conference*, AL.COM (Aug. 4, 2014), http://www.al.com/news/birmingham/index.ssf/2014/08/post_46.html (reporting on Birmingham Mayor's participation in U.S. delegation to CERD review).

60.   Human Rights Comm., Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Fourth Periodic Report: U.S., ¶¶ 390–93, U.N. Doc. CCPR/C/USA/4 (May 22, 2012) (describing subnational developments on marriage equality); *U.S. Treaty Reports*, U.S. DEP'T OF STATE, https://www.state.gov/j/drl/reports/treaties/ (last visited Sept. 24, 2017) (noting that "these comprehensive reports involve substantial coordination with relevant U.S. government agencies," without mentioning subnational governments).

61.   *See National Human Rights Cities Alliance*, U.S. HUMAN RIGHTS NETWORK, http://www.ushrnetwork.org/our-work/project/national-human-rights-cities-alliance (last visited Sept. 30, 2017).

62.   *See State and Local Implementation of Human Rights*, COLUM. HUMAN RIGHTS INST., http://www.law.columbia.edu/human-rights-institute/human-rights-us/state-and-local-implementation (last visited Sept. 8, 2017).

collaborated after the U.S. federal withdrawal from the Paris Accord to reaffirm their commitment to sound environmental policies.[63] Cities have also created alliances around racial equality initiatives, forming the Government Alliance on Race and Equity.[64] Yet there is no U.S.-based alliance of HRCs. Further, few U.S. city leaders have participated in the international organizations supporting local human rights implementation.[65]

II. The Role of Design and Design Thinking in Law and Local Governance

A. Traditional Uses of Design in Law

The idea of an integrated engagement between "law and design" is new, but law and legal analysis has long drawn liberally from design concepts and vocabularies.[66] The potential for more direct engagement and integration has increased as the concept of design itself has expanded in recent decades.[67]

The Merriam-Webster dictionary defines "to design" as "to devise for a specific function or end."[68] The meaning of design has evolved since the Industrial Age, when it was thought of exclusively in relation to engineering and product development.[69] In

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63.   *See, e.g.*, WE'RE STILL IN, http://wearestillin.com/#section1 (last visited Sept. 8, 2017) (listing U.S. cities and counties that pledge to abide by the Paris Agreement).

64.   *Members*, GOV'T ALL. ON RACE & EQUITY, http://www.racialequityalliance.org/members/ (last visited Sept. 8, 2017) (listing city members of the alliance).

65.   For example, the press recently reported that almost no U.S. mayors were slated to participate in the UN-Habitat III meeting to discuss sustainable urbanization issues. Carey Biron & Neal Peirce, *The Fact that No U.S. Mayors are Attending the U.N. Conference on Urbanism is Problematic*, FUTURESTRUCTURE (Sept. 13, 2016); *see also* UCLG, *supra* note 36 (noting lack of U.S. participation in leadership of UCLG).

66.   *See* Hagan, *supra* note 22; *see also* Sarrazin & Maeda *infra* note 74 and accompanying text.

67.   Rim Razzouk & Valeria Shute, *What is Design Thinking and Why is it Important?*, 82 REV. EDUC. RES. 330, 330–31 (2012) (describing increased attention to design in education).

68.   *Design*, MERRIAM-WEBSTER DICTIONARY, http://www.merriam-webster.com/dictionary/design (last visited Sept. 10, 2017).

69.   Toshiharu Taura & Yukari Nagai, *Discussion on Direction of Design Creativity Research (Part 1) – New Definition of Design and Creativity: Beyond the*

contemporary times, design is often viewed broadly as a step in the entrepreneurial process.[70] According to innovation leader Bettina von Stamm, "design is the conscious decision-making process by which information (an idea) is transformed into an outcome, be it tangible (product) or intangible (service)."[71] Von Stamm's definition, along with the dictionary definition, establishes some boundaries of (and thereby defines) today's idea of design by confirming that it is an intentional, transformational process rather than a specific end point.[72]

There are many types of design, including product design, interface design, and graphic design. Many of these processes incorporate aesthetic or artistic components, and design experts often list balance, harmony, pattern, flow, color, and other visual stimuli as fundamental components of design.[73] But design approaches need not be visually oriented, particularly if visual aspects of the design are not important to the ultimate user.[74] In modern parlance, then, design is simply a process through which one realizes a goal; the goal might be to create something functional, colorful, or both.[75]

Law and design already share an overlapping vocabulary. References to design concepts are commonplace in legal discourse,

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Problem-Solving Paradigm, in DESIGN CREATIVITY 2010, at 3 (Toshiharu Taura & Yukari Nagai eds., 2010).

70.	*See, e.g.*, Razzouk & Shute, *supra* note 67, at 331 (describing popularity of design thinking in business settings); Jon Kolko, *Design Thinking Comes of Age*, HARV. BUS. REV., Sept. 2015, at 2, 4 (discussing the use of design thinking in companies).

71.	BETTINA VAN STAMM, MANAGING INNOVATION, DESIGN AND CREATIVITY 17 (2d ed. 2008). Toshiharu Taura and Yukari Nagai suggest that creative intuition is one common denominator of design through the eras. Taura & Nagai, *supra* note 69.

72.	Using the term "design thinking" as early as 1992, Richard Buchanan argued that there is no single definition of design that covers "the diversity of ideas and methods covered under the label." Richard Buchanan, *Wicked Problems in Design Thinking*, DESIGN ISSUES, Spring 1992, at 5.

73.	Erin Adams, *The Elements and Principles of Design: A Baseline Study*, 32 INT'L J. ART & DESIGN EDUC. 157, 164 (2013) (listing elements of design).

74.	*See* Hugo Sarrazin & John Maeda, *Good Design is Good Business*, MCKINSEY & CO. (Oct. 2015), http://www.mckinsey.com/business-functions/organization/our-insights/good-design-is-good-business (noting that good design is not just about appearance).

75.	*See* Lawton Ursrey, *Why Design Thinking Should be at the Core of your Business Strategy Development*, FORBES (June 4, 2014), https://www.forbes.com/sites/lawtonursrey/2014/06/04/14-design-thinking-esque-tips-some-approaches-to-problem-solving-work-better-than-others/#23a596ba1627 (observing that design thinking is solutions oriented).

where judicial decisions and lawmakers frequently refer to balance, proportionality, harmonization, and unity, among other design terms.[76]

Design concepts have been particularly important and useful in framing local governance challenges. For example, sociologist and philosopher Henry Lefebvre referenced practical design approaches in his seminal work developing and defining the "Right to the City."[77] Lefebvre sought to challenge the commodification of urban spaces and to expand the scope of claims on those spaces.[78] Lefebvre's central concern was with the social construction of space, i.e., the ways in which city spaces reproduce social hierarchies.[79] To challenge the perpetuation of these hierarchies within the urban setting, the Right to the City encompasses a right of participation and the right of a city's inhabitants to redesign the city.[80] The opportunity to redesign is a core part of the Right to the City agenda, and Lefebvre's approach focuses on altering urban physical spaces as a means to restructure social relations.

Other theorists have evoked design as a metaphor or guide for rethinking local governance. Notably, in a 2011 colloquium at the University of Texas, the pioneering urban law scholar Gerald Frug identified design as a central concern, noting that "[t]he most serious design problem facing the world's cities is the design of their governance system."[81] Frug continued to offer a detailed comparison between governance challenges and practical architectural problems.[82] A decade earlier, in his important book, *City Making*, Frug trained his focus on the dichotomy between city and suburb, and likewise offered a series of re-design ideas intended to strengthen

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76.   *See, e.g.*, Ewing v. California, 538 U.S. 11, 20–25 (2003) (discussing proportionality in criminal penalties); Market Co. v. Hoffman, 101 U.S. 112, 116–17 (1879) (noting the importance of harmonizing every part of a statute); United States v. Jacobs, 306 U.S. 363, 369 n.12 (1939) (discussing forms of unity in private property); U.S. Dep't of Justice v. Reporters Comm. for Freedom of Press, 489 U.S. 749, 776 (1989) (discussing the balance between public interest and protected interests).

77.   *See, e.g.*, HENRI LEFEVBRE, WRITINGS ON CITIES (Eleonore Kaufman & Elizabeth Lebas trans. and eds., Wiley 1996); HENRI LEFEVBRE, THE URBAN REVOLUTION (Robert Bononno trans., U. of Minn. Press, 2003) (1970).

78.   *See* Alison Brown & Annali Kristiansen, *Urban Policies and the Right to the City*, at 14, U.N. Doc. SHS/SRP/URB/2008/PI/H/3 (Mar. 1, 2009).

79.   *Id.* at 14–15.

80.   *Id.*

81.   Frug, *supra* note 23.

82.   *Id.*

community identities, including such innovative suggestions as regional juries.[83] Frug's twofold focus in these groundbreaking works was: (1) the connection between the organization of physical space and governance, with particular reference to the suburb–city relationship; and (2) the relationship between cities and states.

In the next section, I build on Lefebvre's focus on redesign of physical spaces and Frug's metaphorical use of design as a lens for altering governance relationships. In particular, I examine whether and how design thinking approaches might apply to the challenges facing HRCs, including virtual vertical and horizontal governance relationships that stretch across space and time and affect local human rights implementation.

B. Design Thinking: Beyond Re-design

The phrase "design thinking" was coined in 1987 by Peter Rowe and used to describe the mental processes brought to bear when designing, in the context of architectural and urban planning.[84] In subsequent years, the phrase was borrowed and popularized by Tim Brown, founder of both the Stanford Media Lab and the iconic design firm IDEO.[85] In Brown's expanded version, "design thinking" goes further than the narrower concepts of design espoused by Rowe and sets up the possibility of using design approaches to solve a broader range of problems beyond the creation of the well-designed physical products or the functional spaces typically created by trained designers.[86] As Brown set out in one of his widely-viewed TED talks, "[d]esign is a tool of consumerism focused on aesthetics and marketability . . . ."[87] In contrast, "design thinking" balances

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83. Robert Fishman, *'City Making' by Gerald Frug*, 13 HARV. DESIGN MAG. 1, 1–2 (2001), http://www.harvarddesignmagazine.org/issues/13/city-making-by-gerald-e-frug.

84. *See generally* PETER ROWE, DESIGN THINKING (1987) (presenting three case-studies of design process in problem solving).

85. *See, e.g.,* Tim Brown, DESIGN THINKING, https://designthinking.ideo.com/ (last visited Sept. 10, 2017) (a blog by Tim Brown on Design Thinking); *Tim Brown*, TED TALKS, https://www.ted.com/speakers/tim_brown (last visited Sept. 10, 2017) (explaining that Tim Brown "carries forward [IDEO]'s mission of . . . design thinking").

86. Jeffrey Tjendra, *The Origins of Design Thinking*, WIRED (Apr. 2014), http://www.wired.com/insights/2014/04/origins-design-thinking/.

87. Barbara T. Armstrong, *It's Time to Bring Design Thinking Down from on High*, FORBES (Aug. 15, 2013), http://www.forbes.com/sites/barbaraarmstrong/2013/08/15/its-time-to-bring-design-thinking-down-from-on-high/#c2f4bc061f91;

"desirability, what humans need, with technical feasibility, and economic viability."[88] According to Brown, "design thinking" is "a human-centered approach to innovation that draws from the designer's toolkit to integrate the needs of people, the possibilities of technology, and the requirements for business success."[89] Critical to design thinking is the shift from design's focus on "consumption" to design thinking's imperative of "participation."[90] While participatory in nature, this set of tools and approaches also underscores the potential that design thinking offers as a common ground between business and democratic governance.

As developed by Brown and others, the process of design thinking can be summarized in a flow chart of activities that a creator can follow to develop solutions that are human-centered, and therefore likely to be enjoyed and put to actual use, resulting in business—and in the case of cities, governance—success.[91] Design thinking is a creative endeavor that cannot be fully reduced to a rigid checklist, but design leader John Peterson, founder and president of Public Architecture, identifies the following four steps that are generally part of the design thinking process:[92]

1. Observe. Observe how people actually behave in relation to the problem that you are addressing, not simply what they say or report. Observations of human behavior provide the platform for envisioning human-centered solutions.

2. Iterate. Try out ideas and see what does or does not work, then tinker with the approach to address the snags and test it again. See how people interact with and use your proposed solution and how they feel about it. Then alter the solution to gather more information and insights.

Tim Brown, *Designers—Think Big!*, at 01:22, TED (July 2009), https://www.ted.com/talks/tim_brown_urges_designers_to_think_big.

88.   Brown, *supra* note 87, at 03:41.

89.   Tim Brown, *Design Thinking*, IDEO, https://www.ideou.com/pages/design-thinking (last visited Sept. 30, 2017).

90.   Armstrong, *supra* note 87.

91.   *See, e.g.*, Tim Brown & Jocelyn Watt, *Design Thinking for Social Innovation*, STAN. SOC. INNOVATION REV., Winter 2010, at 31 (adapting and applying design thinking to address complex social issues).

92.   *See Using Design Thinking to Solve Social Problems*, CATCHAFIRE: THE OFFICIAL BLOG OF CATCHAFIRE.ORG (Aug. 12, 2014), https://catchafireblog.org/using-design-thinking-to-solve-social-problems-8547a0914e5a.

3. Prototype. Learn by doing (or by trying). Do not theorize, but instead build a prototype and create possible realities based on your ideas throughout the process.

4. Leave room for ambiguity. Peterson says: "The final piece of design thinking is tolerance for ambiguity or something that may appear to be in conflict."[93]

In other words, if people say one thing and do another, do not dismiss that conflict, but use it to inform the iterative process throughout the design exercise.[94]

In practice, the design thinking process is a stimulating, interactive, participation-oriented approach to problem-solving.[95] Unlike typical legal problem-solving that brings together individuals with overlapping areas of expertise, the design thinking approach encourages work done in diverse teams representing a range of perspectives, disciplines, backgrounds, and experiences.[96]

Because of this diversity, the design process is itself one where design participants gain new empathy and insights into user experiences.[97] Further, the iterative process employed in design thinking, involving a back-and-forth with potential users through iteration and prototyping, highlights the social aspects of the process and opens it to additional participatory elements.[98]

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93.   *Id.*
94.   This may be the aspect of design thinking that is most consistent with the approaches to problem-solving taught in law schools across the country. Many would say that lawyers, trained to work with conflict and ambiguity as a central part of their profession, are uniquely qualified to reach an endpoint through these conflicts and ambiguities. *See, e.g.,* ADRIAN EVANS, THE GOOD LAWYER 77 (2014) (stating that "[v]irtuous lawyers acknowledge moral ambiguity in almost every situation they are confronted with"). For both designers and lawyers, it may be this very ambiguity that stimulates creativity. *See, e.g.,* Theodore Lewis, *Creativity—A Framework for the Design/Problem-Solving Process in Technology Education,* 17 J. TECH. EDUC. 35, 37 (2005) (noting the connection between tolerance for ambiguity and creativity).
95.   Razzouk & Shute, *supra* note 67, at 335.
96.   Emi Kolawole, *Where Inclusion Meets Human Centered Design,* MEDIUM (July 27, 2016), https://medium.com/stanford-d-school/where-inclusion-meets-human-centered-design-518a4c1c93a1.
97.   *See, e.g.,* Deanne McDonagh & Joyce Thomas, *Rethinking Design Thinking: Empathy Supporting Innovation,* 3 AUSTRALASIAN MED. J. 458, 460 (2010) ("Gaining insight into a user's emotions, aspirations, and fears can provide the designer with critical cues and inspiration to create more balanced functional and supra-functional products.").
98.   *See, e.g.,* Mihyun Kang, Phil Choo & Craig Watters, *Design for Experiencing: Participatory Design Approach with Multidisciplinary Perspectives,*

The business community has embraced design thinking as a means to enhance its ability to develop products that please customers.[99] Likewise, many cities are already using design thinking approaches to address complex challenges. For example, the Greater Cincinnati urban region used a design thinking process to explore: "How might we involve the whole family to increase the number of women in advanced manufacturing careers and increase participation in STEM learning among their children?"[100] Detroit created Challenge Detroit, a multi-year program of design challenges to address issues facing the city, from improving neighborhood services to expanding opportunities for immigrant entrepreneurs.[101] Internationally, cities from Dublin to Helsinki to Taipei have used design thinking methodologies to reconsider their approaches to community revitalization.[102]

Yet for all of its inherent openness, design thinking is not judgment- or bias-free. At the outset, someone or some group of people must define the problem to be addressed. This is a process that involves deep listening and empathy, but also, ultimately, a subjective judgment regarding what is salient about the identified challenge.[103] By way of example, take a question posted on OpenIDEO

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174 PROCEDIA – SOC. & BEHAV. SCI. 830, 831 (2015) (discussing participatory design).

99.   *See* Michelle Toh, *Why Design Thinking Matters More in Business than Ever*, FORTUNE INT'L (Mar. 14, 2017) (asserting that "whatever sector you're in, good design is more important than ever").

100.   Kate Hanisian, *Design Thinking in Collective Impact*, LIVING CITIES: BLOG (July 8, 2015), https://www.livingcities.org/blog/860-design-thinking-in-collective-impact.

101.   *The Idea*, CHALLENGE DETROIT, http://www.challengedetroit.org/the-idea (last visited Oct. 4, 2017).

102.   Andrew King & Jeanne Liedtke, *How Design Thinking Engaged Dubliners in Community Revitalization*, WASH. POST (Mar. 21, 2014), https://www.washingtonpost.com/business/how-design-thinking-engaged-dubliners-in-community-revitalization/2014/03/21/01fc2ec4-addb-11e3-a49e-76adc9210f19_story.html?utm_term=.25fac34ebbcc; *see also* Sophia Yang, *Taipei Mayor: Community Revitalization Continues After World Design Capital Designation*, TAIWAN NEWS (Dec. 21, 2016), https://www.taiwannews.com.tw/en/news/3056087 (noting community involvement with design thinking in Taipei); Laura Aalto, *Helsinki: A City Driven by Design*, DESIGN FOR EUROPE (Oct. 5, 2015), http://designforeurope.eu/news-opinion/helsinki-city-driven-design (describing how design thinking has developed Helsinki into a "human-centric city").

103.   HASSO PLATTNER INST. OF DESIGN AT STANFORD, AN INTRODUCTION TO DESIGN THINKING PROCESS GUIDE 3, https://dschool-old.stanford.edu/sandbox/groups/designresources/wiki/36873/attachments/74b3d/ModeGuideBOOTCAMP20

for the purpose of stimulating design thinking processes: "How might we dramatically reduce waste by transforming our relationship with food?"[104] Simply by asking this question, OpenIDEO has chosen to prioritize this issue above others that might be tackled. But the problem statement also contains some assumptions. It assumes, for example, that changes in humans' relationship with food will have an impact on waste. It also seems to assume that "we"—humans—have a universal relationship with food when, in fact, there are many different such relationships spanning the globe and "we" may not all be in similar positions. Given the unavoidable bias involved in identifying a problem for design thinking attention, the most one can hope for is that the problem statement does not point to a favored solution and instead opens the door to creativity and innovation. The interactive and social nature of the design process, the diversity of participants, and the shared and universal limitations of being human mitigate these biases, but they cannot be wholly eliminated.[105] For that reason, design thinkers prefer the more open-ended formulation of "how might we" (or HMW) rather than "how could we."[106]

In sum, design is generally a creative process for turning an idea into a reality, and design thinking is a methodology for designing that puts human needs at the center of the task. The result of a strong design thinking process should be an output that takes human behavior into account, while responding to the underlying problem identified, and is therefore truly useful to and usable by people.

Below, I turn to two significant design challenges facing HRCs, and suggest ways in which both design and design thinking

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10L.pdf?sessionID=573efa71aea50503341224491c862e32f5edc0a9 (last visited Oct. 4, 2017) (describing the process of defining the design question).

   104.   *Challenge: How Might We Dramatically Reduce Waste by Transforming Our Relationship with Food?*, OPENIDEO, https://challenges. openideo.com/challenge/food-waste/brief (last visited Oct. 4, 2017). OpenIDEO is an open platform for collaboration that is part of the design and innovation firm IDEO. *See About Us,* OpenIDEO, https://challenges.openideo.com/about-us (last visited Aug. 1, 2017).

   105.   *See, e.g.*, Jeanne Liedtke, *Perspective: Linking Design Thinking with Innovation Outcomes through Cognitive Bias Reduction,* 32 J. PRODUCT INNOVATION MGMT. 925, 932–36 (2015) (discussing ways in which design thinking mitigates cognitive biases).

   106.   *How Might We,* DESIGN KIT, http://www.designkit.org/methods/3 (last visited Oct. 4, 2017) ("A properly framed How Might We doesn't suggest a particular solution, but gives you the perfect frame for innovative thinking.").

perspectives might contribute to developing new approaches to local governance.

III. DESIGN CHALLENGES FOR HUMAN RIGHTS CITIES

Cities in the United States that wish to implement human rights locally face many design challenges.[107] Here, I focus on just two. First, cities must work within the constraints of the vertical relationships between cities and international human rights institutions. Second, cities are subject to the constraints of pre-emption by states and the federal government.

These design challenges are structural and are distinct from critiques of the substantive content of human rights protections. While these challenges might be viewed as issues of federalism or politics, posing them as design challenges situates problem solvers differently in relation to the problems, creating a place to imagine more dramatic changes to the existing structures and to devise experimentation to test approaches. A design perspective does not eliminate constitutional constraints on local governance, but invites new perspectives on these constraints. A design frame also focuses problem solvers on issues of functionality and human behavior as they explore what works in the real world and what beneficial impacts human-centered design might bring to the system. While the design challenges identified here involve local governance, the design frame broadens the discussion by enlisting language and concepts from disciplines that are not always involved in addressing governance issues, including architecture, engineering, and business. Below, I describe the two major challenges identified here in greater detail.

A. Cities and International Institutions

Even as they emerge as players on the international political scene, cities remain marginalized in formal international human rights law.[108] The fundamental assumption underlying the United

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107.   For example, zoning issues raise challenges concerning the use of city spaces, neighborhood character, and traffic flow that could be readily characterized as design challenges. *See, e.g.*, ROBIN PAUL MALLOY, LAND USE LAW AND DISABILITY: PLANNING AND ZONING FOR ACCESSIBLE COMMUNITIES 15 (2015) (arguing for a design approach to land use issues to promote inclusion).

108.   *See, e.g.*, Yishai Blank, *The City and the World*, 44 COLUM. J. TRANSNAT'L L. 868, 884 (2006) (stating that "local governments have no legal

Nations system, as well as the very notion of international human rights treaties, is that the nation state is the sole representative of its population on the international stage.[109] But there is increasing pushback on that assumption. Local power on the international stage may be enhanced when, as seen in recent U.S. policies, the national government deliberately retreats from international engagement.[110] Further, with increased ease of communication and expanded sophistication and capacity, local governments are accruing greater power in areas impinging on foreign relations that were once solely reserved for nation states.[111] As scholar Rodrigo Tavares recently noted, "[t]he international activism of cities and states is rapidly growing across the world, discreetly transforming diplomatic practices and the delivery of public services."[112]

A recent, dramatic example of shifting power to cities arose from the United States' 2017 withdrawal from the Paris Climate Accord ("Accord"), an agreement concluded less than two years earlier under the auspices of the United Nations.[113] The Accord is a legally binding, global agreement to combat climate change, unprecedented because of the near universal acceptance of its framework for slowing global warming.[114] Under President Obama's leadership, the United States joined the agreement on September 3, 2016, and made plans to

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personality in formal international law"). *But see* Nijman, *supra* note 49 (predicting that cities will increasingly be integrated into international legal structures).

109. *See* ANTHONY AUST, MODERN TREATY LAW AND PRACTICE 18 (2d ed. 2007) (explaining that an agreement between international companies or non-state entities cannot be a treaty because a treaty must be between states).

110. *Why Mayors Should Rule the World*, EUROPEAN (Mar. 25, 2014), http://www.theeuropean-magazine.com/benjamin-r-barber/8270-why-mayors-should-rule-the-world (conversation with Benjamin Barber); *see also* Michael D. Shear, *Trump Will Withdraw U.S. from Paris Climate Agreement*, N.Y. TIMES (June 1, 2017), https://www.nytimes.com/2017/06/01/climate/trump-paris-climate-agreement.html.

111. *See* Blank, *supra* note 108, at 871; *see also* Adam Rogers, *Los Angeles Says It'll Stay in the Paris Climate Agreement It Isn't In*, WIRED (May 18, 2017), https://www.wired.com/2017/05/cities-cant-sign-treaties-can-still-fight-climate-change/.

112. Rodrigo Tavares, *Forget the Nation-State: Cities will Transform the Way We Conduct Foreign Affairs*, WORLD ECON. FORUM (Oct. 4, 2016), https://www.weforum.org/agenda/2016/10/forget-the-nation-state-cities-will-transform-the-way-we-conduct-foreign-affairs/.

113. Shear, *supra* note 110.

114. Daniel Bodansky, *The Paris Climate Change Agreement: A New Hope?*, 110 AM. J. INT'L L. 288, 290–91 (2016).

meet its benchmarks.[115] On June 1, 2017, President Trump announced, to the dismay of his international counterparts, that the United States would withdraw from the Accord.[116]

Within days of President Trump's announcement, however, hundreds of the nation's local leaders proclaimed that they would continue to abide by the international agreement despite federal U.S. withdrawal.[117] To support the local efforts, former New York mayor Michael Bloomberg, who serves as the U.N. Special Envoy for Cities and Climate Change, announced that he would work with the United Nations to develop a new reporting mechanism to allow subnational governments to report on their climate progress even as the U.S. federal government dropped out of the Accord.[118] Until the U.S. withdrawal raised this new issue, there had been no mechanism for subnational governments to independently register their progress, even though that progress made a critical contribution to the Accord's end goal.[119] Experts estimate that, with a concentrated effort and coordination among cities, it will still be possible to make significant progress toward achieving the emissions reductions targets set out in the Accord.[120]

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115.   Tanya Somanader, *President Obama: The United States Formally Enters the Paris Agreement*, OBAMA WHITE HOUSE ARCHIVES (Sept. 3, 2016), https://obamawhitehouse.archives.gov/blog/2016/09/03/president-obama-united-states-formally-enters-paris-agreement.

116.   Jonathan Watts & Kate Connolly, *World Leaders React After Trump Rejects Paris Climate Deal*, GUARDIAN, (June 1, 2017, 11:23 PM), https://www.theguardian.com/environment/2017/jun/01/trump-withdraw-paris-climate-deal-world-leaders-react (quoting statements from French, German, and Italian leaders).

117.   *E.g.*, Maureen Groppe, *Mayors Pledge to Take the Lead on Fighting Climate Change*, USA TODAY (June 2, 2017), https://www.usatoday.com/story/news/politics/2017/06/02/mayors-pledge-take-lead-fighting-climate-change/102435920/.

118.   Hiroko Tabuchi & Henry Fountain, *Bucking Trump, These Cities, States and Companies Commit to Paris Accord*, N.Y. TIMES (June 1, 2017), https://www.nytimes.com/2017/06/01/climate/american-cities-climate-standards.html.

119.   *Id.*; *see also* Laura Bliss, *Can Cities Actually Meet the Paris Commitments on their Own?*, CITYLAB (June 6, 2017), https://www.citylab.com/equity/2017/06/can-us-cities-meet-the-paris-commitments-on-their-own/528996/ (estimating that cities acting alone can meet about 50 percent of Paris goals).

120.   Cities are indeed coordinating in this effort. *See* C40 & ARUP, HOW U.S. CITIES WILL GET THE JOB DONE 10, http://c40-production-images.s3.amazonaws.com/researches/images/62_C40_DL2020_America_.original.pdf?1484666230 (last visited Oct. 4, 2017) (noting that twelve large U.S. cities, representing metropolitan areas for 25% of the U.S. population, are members of

        The U.S. withdrawal from the Paris Climate Accord may finally convince the United Nations to face the question of how subnational governments can interact more directly with international bodies. A recent U.N. study of the issue led to modest recommendations, such as the suggestion that nations should consult with subnational governments as they prepare reports for U.N. treaty-monitoring bodies.[121] Yet, generally wary of interfering with domestic policies, the U.N. Human Rights Council Advisory Committee indicated that the issue of local roles in international lawmaking is an internal one, to be dealt with by nation states. According to the Committee, "[a] clear-cut division of powers between the different tiers of government is the precondition for the establishment of accountability, and hence the precondition for the implementation of human rights."[122] In response to such recommendations, the U.S. federal government made efforts to solicit input from cities and states about local initiatives as part of its treaty reporting process, even including some local actors in its delegations to Geneva.[123] In addition to such member-led efforts, U.N. bodies such as UN-Habitat routinely reach out to ensure that cities' perspectives are represented as international bodies grapple with global urban challenges.[124]

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the global C40 group of large cities working to address climate change); *see also* Michael Dhar, *Climate Cities: Can Urban America Save Paris Agreement?*, LIVESCIENCE (July 11, 2017), https://www.livescience.com/59758-can-urban-america-save-paris-agreement.html (describing city plans to address climate change after U.S. withdrawal from the Paris agreement). Another coalition, the Compact of Mayors, a global network of cities working to address climate change, includes members of the C40 group as well as smaller cities such as, from the U.S. roster, Dubuque, Iowa, and Ann Arbor, Michigan. *See Cities Committed to the Compact of Mayors*, COMPACT OF MAYORS, https://www.compactofmayors.org/cities/ (last visited Oct. 4, 2017).

    121.   Human Rights Council, *Role of Local Government in the Promotion and Protection of Human Rights,* Final Report of the Human Rights Council Advisory Comm., ¶¶ 77–78, U.N. Doc. A/HRC/30/49 (Aug. 7, 2015).

    122.   *Id.* ¶ 33.

    123.   *See* Letter from Hongju Koh, Legal Advisor, U.S. Dep't of State, to State Governor (Dec. 20, 2010) (on file with the U.S. Department of State) (requesting that governors share information relevant to implementation of the Convention Against Torture and the CERD); *see also Large Senior Multi-Agency Delegation to Represent U.S. at May 11 UPR Review*, U.S. MISSION, GENEVA, SWITZ., https://geneva.usmission.gov/2015/05/01/upr-delegation/ (last visited Oct. 4, 2017) (listing the members of the U.S. delegation to the 2015 UPR, which included the Honorable Lisa Madigan, Attorney General of Illinois).

    124.   *See, e.g., Local Governments*, UN-HABITAT, http://mirror.unhabitat.org/categories.asp?catid=365 (last visited Oct. 4, 2017) ("UN-Habitat

But these measures remain largely ad hoc and informal. There is little formal role for cities in the major institutions of world governance. This status quo opened the political space for the inaugural convening of the Global Parliament of Mayors (GPM) in 2016.[125] Inspired by the writings of political scientist Benjamin Barber on the rise of cities, the GPM's mission states that it is "a governance body of, by and for mayors from all continents."[126] As such, the GPM "builds on the experience, expertise, and leadership of mayors in tackling local challenges resulting from global problems. At the same time, it brings local knowledge to the table and thus participates actively in global strategy debates and underscores the need for practical, action oriented solutions."[127]

The GPM's concluding statement of action following its initial gathering indicated that the GPM will work with and advise international organizations like the Organization for Economic Co-operation and Development (OECD), the World Bank, and especially the United Nations.[128] This pledge of informal collaboration and input underscores the continued absence of formal mechanisms to support the engagement of local governments with international human rights institutions and highlights the nature of this design challenge.

B. Domestic Hierarchies and Pre-emption

As set out above, in 2015, the U.N. Human Rights Council Advisory Committee posited that clear lines of accountability are necessary to support domestic human rights implementation at all levels of government.[129] In the United States, however, clear-cut guidelines are absent between cities, states, and the federal government. The overlapping nature of these vertically-juxtaposed

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has the specific mandate within the United Nation System to act as a focal point for local governments, including regional, provincial, federal and other territorial governments.").

125.   *See*   GLOBAL   PARLIAMENT   OF   MAYORS, https://globalparliamentofmayors.org/ (last visited Oct. 4, 2017) [hereinafter GPM]; *see also 2016 Annual Report,* GLOBAL PARLIAMENT OF MAYORS, https://globalparliamentofmayors.org/wp-content/uploads/2017/01/Annual-Report-GPM.pdf (last visited Oct. 4, 2017).

126.   GPM, *supra* note 125.

127.   *Id.*

128.   *Global Parliament of Mayors Established During Conference in the Hague, The Netherlands,* GLOBAL PARLIAMENT OF MAYORS (Sept. 11, 2016), https://globalparliamentofmayors.org/inaugural-meeting-of-gpm-the-hague-the-netherlands/.

129.   *See* Human Rights Council, *supra* note 121.

jurisdictions—an arrangement which is generally viewed as a strength of the American legal system—means that areas of authority are subject to constant negotiation between these different levels of governance.[130]

Sometimes, inaction, rather than action, contributes to the federalism dialogue. For example, the United States has declined to ratify the widely-accepted human rights treaty on women's rights, CEDAW.[131] Responding to constituent concerns about the United States' absence from the treaty, local governments have at times taken steps to fill the void left by this national inaction in the human rights arena. Most notably, San Francisco adopted CEDAW as its municipal law, despite—or perhaps because of—the United States' failure to ratify the Convention.[132] Further, representatives of the San Francisco Department on the Status of Women have informally reported on the city's CEDAW implementation to the U.N. Commission on the Status of Women.[133] The San Francisco Department on the Status of Women also led the way in initiating the Cities for CEDAW campaign, urging other local governments to adopt CEDAW as their municipal law.[134]

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130.   *See, e.g.*, Cristina Rodriguez, *Negotiating Conflict Through Federalism: Institutional and Popular Perspectives*, 123 YALE L.J. 2094, 2095 & n.1 (2014) (describing federalism as a state of "constant negotiation"); Catherine Powell, *Dialogic Federalism: Constitutional Possibilities for Incorporation of Human Rights Law in the United States*, 150 U. PENN. L. REV. 245, 249–50 (2001) (arguing that conflict and indeterminacy between national and subnational governments are positive conditions provided there are dialogic mechanisms for resolving the conflicts); Robert Schapiro, *Toward a Theory of Interactive Federalism*, 91 IOWA L. REV. 243, 246 (2005) ("The federal government and the states have extensive areas of concurrent authority.").

131.   *See* G.A. Res. 34/180, Convention on the Elimination of All Forms of Discrimination Against Women (Dec. 18, 1979).

132.   *See, e.g.*, Lozner, *supra* note 50 (describing San Francisco's process). Interestingly, Lozner describes San Francisco as pursuing a participatory regulatory model that shares important elements with co-design. *Id.* at 774–76. *See also* Johanna Kalb, *The Persistence of Dualism in Human Rights Treaty Implementation*, 30 YALE L. & POL'Y REV. 71, 73–74 (2011) (noting that subnational governments are more likely to engage with treaties that have not been ratified at the federal level).

133.   *See* CITY & CTY. OF S.F., DEP'T ON THE STATUS OF WOMEN, U.N. COMM'N ON THE STATUS OF WOMEN, BEIJING DECLARATION AND PLATFORM FOR ACTION, 20TH ANNIVERSARY REVIEW: SAN FRANCISCO REGIONAL INPUT (2014), http://sfgov.org/dosw/sites/default/files/Beijing%2B20%20SF%20Regional%20Revi ew.pdf.

134.   *See About Us*, CITIES FOR CEDAW, http://citiesforcedaw.org/about-us/ (last visited Oct. 4, 2017) (noting that Cities for CEDAW was launched by the

In adopting CEDAW on the local level and sharing its "lessons learned" with the international community, San Francisco is certainly not masquerading as a nation.[135] Still, echoing the Supreme Court's decision striking a Massachusetts law that restricted state business with Burma, the federal government might argue that such local human rights initiatives "compromise the very capacity of the President to speak for the Nation with one voice in dealing with other governments."[136] In *Crosby v. National Foreign Trade Council*, a unanimous Supreme Court found that the Massachusetts Burma law was an obstacle to the federal administration's pursuit of a distinct federal purpose—in that case, to maintain federal control over Burmese relations and to circumscribe the range of permissible sanctions as a matter of U.S. foreign policy.[137] Similarly, a federal challenge to local CEDAW implementation might argue that federal non-ratification is a deliberate policy message to other nations that is diluted when local governments adopt the Convention.[138]

Vertical hierarchy is also a central challenge facing sanctuary cities, as they carve out positions on immigration that respond to local needs and politics but differ, perhaps dramatically, from federal and state positions.[139] Though the wide range of local sanctuary policies undoubtedly furthers international human rights norms to varying degrees, both federal and state governments have argued that local governments are "pre-empted" from adopting such policies

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Women's Intercultural Network and the San Francisco Department on the Status of Women).

135.   CITY & CTY. OF S.F., *supra* note 133, at 3 ("The San Francisco Department on the Status of Women is governed by the San Francisco Commission on the Status of Women, a permanent body of the San Francisco City Charter whose 7 members are appointed by the Mayor.").

136.   Crosby v. Nat'l Foreign Trade Council, 530 U.S. 363, 381 (2000).

137.   *Id.* at 373–74.

138.   *See, e.g.*, ROBERT SCHAPIRO, POLYPHONIC FEDERALISM: TOWARD THE PROTECTION OF FUNDAMENTAL RIGHTS, 120 (2009) (considering, then dismissing that argument based on the idea that federal inaction cannot be equated with federal action). *But see* Judith Resnik, *Foreign as Domestic Affairs: Rethinking Horizontal Federalism and Foreign Affairs Preemption in Light of Translocal Nationalism*, 57 EMORY L.J. 31, 77–78 (2007) (discussing San Francisco CEDAW in light of pre-emption doctrine).

139.   *See, e.g.*, Niraj Chockshi, *Texas Governor Signs a Ban on Sanctuary Cities*, N.Y. TIMES (May 7, 2017), https://www.nytimes.com/2017/05/07/us/texas-governor-signs-ban-sanctuary-cities.html (describing both state and federal challenges to sanctuary cities).

when they conflict with state or federal laws and policies.[140] Pre-emption is also a lurking issue in the HRC movement, based on the idea that local engagement with human rights represents an encroachment on the federal government's exclusive foreign affairs power.[141]

This tension between national and local governments' authority (and political will) to address human rights issues is not unique to the United States. Similar differences between national and local policy perspectives have also surfaced in Europe, as made clear in the Graz Declaration on the Implementation of Human Rights, drafted in 2015.[142] The Graz gathering brought together local and regional decision-makers from twenty-five European countries, as well as representatives of the Congress of the Council of Europe, to address local human rights implementation.[143] With the backdrop of the refugee crisis, the Graz statement calls for "cooperation between authorities at all levels . . . in order to pursue a common strategy to enhance inclusion and make human rights a reality in Europe's cities and regions."[144] In Europe, as in the United States, some perceive that national governments stand on principles of sovereignty and strong borders, leaving cities without sufficient power or resources to deal with the human realities on the ground.[145]

The two vertical governance dilemmas outlined above—city–international and city–state–federal—pose classic design challenges.[146] As design thinkers, we could ask: How might we ensure

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140.   *See, e.g.*, Riverstone-Newell, *supra* note 21, at 419–20; Pratheepan Gulasakaram & Rose Villazor, *Sanctuary Policies & Immigration Federalism: A Dialectic Analysis*, 55 WAYNE L. REV. 1683, 1707–14 (2009).

141.   *See generally* Robert Stumberg, *Preemption & Human Rights: Local Options after Crosby v. NFTC*, 32 L. & POL'Y INT'L BUS. 109 (2000) (analyzing ways that local governments might continue to register their human rights positions post-*Crosby*).

142.   *Graz Declaration on the Implementation of Human Rights*, COUNCIL OF EUROPE, https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2753389&SecMode=1&DocId=2273442&Usage=2 (last visited Oct. 4, 2017).

143.   *Id.*

144.   *Id.* ¶ 7.

145.   *See, e.g.*, Laia Ortiz, *Europe Must Empower its Cities to Deal with the Refugee Crisis*, EU OBSERVER (Jan. 27, 2015), https://euobserver.com/opinion/136697 (discussing the ways in which cities in the E.U. are not empowered to deal with the refugee crisis).

146.   *See, e.g.*, Cristina Rodriguez, *The Significance of the Local in Immigration Regulation*, 106 MICH. L. REV. 567, 636 n.294 (referencing Clayton P. Gillette & Leila K Thompson, *Pre-empting Interest Groups: Conflicts Between*

that individual human rights are protected by local governments? One response might be to rethink the hierarchical relationships globally between cities and international bodies and, in the United States, between cities, states, and national governments. The next section outlines possible approaches, inspired by design metaphors as well as the more grounded practices of design thinking.

IV. DESIGN-INFORMED RESPONSES TO VERTICAL CHALLENGES

A. Balancing Hierarchies by Increasing the Base

Drawing on the architectural metaphors enlisted by Gerald Frug, the vertical challenges facing cities might be viewed in design terms as creating a structural imbalance.[147] Like a tall, top-heavy building, hierarchical pressure from the federal and state levels bears down on individual localities, creating instability at the base. Alone, an individual city may lack the power to bear this weight on behalf of its constituents, and city policies may simply reflect the imprint of the heavy vertical pressure that it faces.

Just as in architecture, however, the instability can be addressed by expanding the base.[148] Indeed, that is exactly how many cities have responded, creating a growing number of city-to-city alliances to share the weight and respond constructively to the downward and lateral pressure they feel from vertical hierarchies. The Global Parliament of Mayors (GPM) is exemplary of this phenomenon on the international level.[149] Domestically, more than 350 U.S. mayors have united to increase their base, stand up to federal disapproval, and adopt the Paris Accord's environmental

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State Statutes and Local Ordinances (unpublished manuscript) (on file with author) (characterizing state pre-emption as a matter of institutional design regarding the best forum for resolution of certain issues).

147.   *See, e.g.*, EDWARD ALLEN & JOSEPH IANO, THE ARCHITECT'S STUDIO COMPANION: RULES OF THUMB FOR PRELIMINARY DESIGN 43 (3d ed. 2002) ("Tall, narrow buildings are more difficult to stabilize against lateral forces than broader buildings.").

148.   *See, e.g.*, DANIEL SCHODEK, STRUCTURE IN SCULPTURE 61 (1993) ("The *stability* of the object could . . . be *increased* by *increasing* the width of *the base* of the structure.").

149.   See *Local Governments, supra* note 124 and accompanying text for more information on the Global Parliamentary of Mayors. Several U.S. cities are members of the GPM, including Atlanta, Los Angeles, and Oklahoma City. *Id.*

goals.[150] Similarly, facing defunding threats from the federal government for their local immigration policies, mayors banded together to meet with the U.S. Department of Justice to challenge federal policies and express "strong reservations" about the federal approach.[151] City leaders have spoken out about the value of such horizontal collaborations in the climate area, noting that together, cities can better learn from each other, take advantage of economies of scale, and amplify their constituents' voices on the national and international levels.[152]

     To date, the HRC movement in the United States lacks such a stabilizing base. There is no formal alliance of U.S. HRCs.[153] While the U.S. Conference of Mayors includes a specific reference to human rights in its organizational agenda, the organization's resources offer little guidance to cement the connection between localities and international human rights norms.[154] HRC advocates have organized on a national basis, but the challenges that they face as organizers are distinct from the governance challenges faced by the cities themselves.[155] Like advocates, official human rights agencies, some of which are city-based, have an organizational home that grounds,

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     150.   *Statement from Climate Mayors in Response to President Trump's Withdrawal from the Paris Climate Agreement,* MEDIUM (June 1, 2017), https://medium.com/@ClimateMayors/climate-mayors-commit-to-adopt-honor-and-uphold-paris-climate-agreement-goals-ba566e260097.
     151.   U.S. CONFERENCE OF MAYORS, AN OPEN LETTER TO THE CONGRESS ON IMMIGRATION FROM AMERICA'S MAYORS (Apr. 7, 2017), http://www.usmayors.org/wp-content/uploads/2017/02/An-Open-Letter-to-the-Congress-on-Immigration-from-America%E2%80%99s-Mayors040717.pdf.
     152.   Dhar, *supra* note 120.
     153.   Press reports indicate that Mayor Ken Rosenberg is exploring the possibility of creating a global institute on HRCs based in Mountain View, California. *See* Ken Rosenberg, Opinion, *International HQ for Human Rights Cities Being Formed,* DAILY KOS (May 26, 2017), https://www.dailykos.com/stories/2017/5/26/1666392/-International-HQ-for-Human-Right-City-being-formed. Such an institute would be particularly valuable if it engaged U.S.-based HRCs, since their participation on the international stage in the Gwuangju conferences and UCLG meetings has been minimal.
     154.   *See, e.g., Create Equitable Communities to Increase Opportunity for All,* U.S. CONFERENCE OF MAYORS, http://mayorsagenda.com/pillars/equitable-communities/ (last visited Oct. 4, 2017) (stating that mayors must ensure civil and human rights).
     155.   *See NATIONAL HUMAN RIGHTS CITIES ALLIANCE,* U.S. HUMAN RIGHTS NETWORK, https://www.ushrnetwork.org/our-work/project/national-human-rights-cities-alliance (last visited Oct. 4, 2017) (describing the group as an alliance of HRC organizers, advocates, scholars and others).

stabilizes, and amplifies the individual efforts of their members.[156] A nationwide alliance of HRCs, whether independent or under the auspices of a broader organization, such as the U.S. Conference of Mayors or the more international GPM, could provide the stable base that design principles suggest is needed in order to flourish structurally and politically in the face of vertical pressure from state and federal governments.

B. Express Elevators

HRCs seek to engage directly with international human rights norms, yet their efforts are frustrated in two ways: through pre-emptive domestic hierarchies and through international institutions' focus on nation states. Again, a design lens is useful in thinking about ways to move beyond these challenges.

In a multi-level building, the top floor is often the most prestigious and exclusive—a penthouse in an apartment building or the corporate offices in a commercial space.[157] Access to these top spaces may be controlled and no one inadvertently passes by on their way somewhere else. Yet in the modern era, many tall buildings have an important human-centered design feature: express elevators that allow passengers to bypass lower floors and ascend directly to their top-level destinations without interference.[158] Ironically, at the same time that these express elevators may be used to control and limit access to the upper levels, they may also be used to make access smoother, easier, and more direct.

Express elevators suggest the possibility of analogous approaches in the city–international governance hierarchy. Might city–international connections be structured in a similar way, so that local governments could have express access to interact directly with

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156.   *See* INT'L ASS'N OF OFFICIAL HUMAN RIGHTS AGENCIES (IAOHRA), http://www.iaohra.org/ (last visited Oct. 4, 2017).

157.   *See, e.g.*, *Penthouse*, NEW OXFORD AM. DICTIONARY, (3rd ed. 2010) (defining penthouse as top floor and luxurious); Claire Wilson, *Quirky Top-Floor Spaces In Demand for Offices*, N.Y. TIMES (May 14, 2008), http://www.nytimes.com/2008/05/14/business/14top.html ("The fact that you are on the top floor says something about ego or branding, and it says something that the views happen to be better.").

158.   *See, e.g.*, Kheir Al-Kodmany, *Tall Buildings and Elevators: A Review of Recent Technological Advances*, 5 BUILDINGS 1070, 1079–80 (2015) (describing "destination dispatching systems" (DDS) that group elevator passengers according to their destinations); *id.* at 1081–82 (describing use of DDS systems to control access to certain parts of a building).

international human rights bodies, at least with respect to certain universal issues such as women's equality or children's rights? San Francisco's engagement with the U.N. Commission on the Status of Women suggests a model for such local–international connections.

To extend the metaphor, and to respond to concerns about untethering cities from national and state government oversight, perhaps the express elevator could be one-way only, with express access to international institutions and local stops on the return trip, when cities would check in on the domestic national and state floors. This sequence would shift the power dynamic, while maintaining some aspects of the formal city–state–federal hierarchy. This would create a presumption supporting express local engagement with human rights norms and institutions that are slowed down or stopped by nations and states only in certain circumstances, such as demonstrated prejudice to national interests.[159] In practical terms, the approach might allow cities to stake out human rights-focused positions on the international stage, while at the same time allowing federal and state governments to distance themselves from (or alternatively, embrace) local policies.

Finally, the elevator metaphor also suggests ways in which international bodies might receive the input of cities. Rather than treating local governments as the equivalent of national governments, international human rights bodies might imagine providing a separate reception area for local governments tailored to their distinct needs and expertise. To some extent, this is how the United Nations has been approaching the issue, allowing local governments to gain access to U.N. initiatives through UN-Habitat or through special collaborations such as the Compact of Mayors.[160] However, neither UN-Habitat nor the Compact of Mayors are entities with a governance role in the U.N. system. A more formal recognition of the role of local governments through a designated and particularized reception area with greater access to the range of U.N.

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159.   This is similar to the suggestions made by Paul Diller to shift the burden of proof to states intent on preempting local initiatives. Diller, *supra* note 5, at 1170–71. Judith Resnik has also suggested revisiting the hierarchical presumptions that underpin judicial pre-emption doctrine. Resnik, *supra* note 138, at 41–42 (arguing against broad rules permitting judicial pre-emption of subnational legislative initiatives).

160.   *See History, Mandate & Role in the U.N. System,* UN HABITAT, https://unhabitat.org/history-mandate-role-in-the-un-system/ (last visited Oct. 1, 2017); *History,* COMPACT OF MAYORS, https://www.compactofmayors.org/history/ (last visited Oct. 1, 2017).

governance mechanisms—perhaps through interactions in a virtual space—would encourage stronger connections between the local governments and the broader human rights agenda of the United Nations.

C. One-Way Ratchets

In recent years, many U.S. cities have been frustrated in their efforts to adopt policies that are consistent with their residents' needs and interests, but are in tension with state-wide policies.[161] In many instances, states have taken action to pre-empt these local policies. Examples include living wage policies,[162] workplace regulations,[163] anti-smoking measures,[164] consumer water regulations,[165] and more recently, sanctuary city policies.[166] State pre-emption is generally accomplished when states seek to enforce statutory or state constitutional limitations on local autonomy.[167]

Again, design metaphors suggest the possibility of a different approach: a one-way ratchet approach that could permit cities to expand, but not contract, the rights of city residents relative to state baselines.[168] Ratchets are not foreign to law. Justice Brennan articulated the concept of a legal ratchet in *Katzenbach v. Morgan*, where he opined that Congress could exercise legislative power to expand constitutional rights beyond those previously identified by the courts.[169] The U.S. Supreme Court later rejected the ratchet theory as

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161.   NAT'L LEAGUE OF CITIES, *supra* note 14.
162.   Stephanie Scott, *Should States Preempt Local Governments from Passing Higher Minimum Wage Ordinances*, U. CIN. L. REV. F. (Apr. 20, 2016), https://uclawreview.org/2016/04/20/should-states-preempt-local-governments-from-passing-higher-minimum-wage-ordinances/ (last visited Oct 4, 2017) (concluding that state pre-emption of minimum wage laws is appropriate).
163.   Jennifer Pomeranz & Mark Pertschuk, *State Preemption: A Significant and Quiet Threat to Public Health in the United States*, 107 AM. J. PUB. HEALTH 900 (2017).
164.   Michelle Griffith et al., *State Preemption of Local Tobacco Control Policies Restricting Smoking, Advertising, and Youth Access—United States, 2000–2010*, 60 MORBIDITY & MORTALITY WEEKLY REP. 1124 (Aug. 26, 2011).
165.   Diller*, supra* note 5, at 1123.
166.   Riverstone-Newell, *supra* note 21, at 413–15.
167.   Diller, *supra* note 5, at 1126–27.
168.   A ratchet is a mechanical device with a slanted tooth wheel that allows one-way motion only; often used in clocks, ratchets of many sizes appeared in Charlie Chaplin's classic silent film Modern Times. MODERN TIMES (Charlie Chaplin, 1936).
169.   Katzenbach v. Morgan, 384 U.S. 641, 653–56 (1966).

applied to the U.S. Constitution, but that did not foreclose its applicability on the state level.[170]

A great advantage of a one-way ratchet approach is that it would allow cities to respond to the needs and interests of their residents, promoting innovation and reinforcing democratic values at the local level.[171] Despite this benefit, some states have expressed concerns about patches of inequality that might be created if, for example, a few cities adopted higher minimum wages than did surrounding areas or if some cities protected transgender status while other areas of the state did not.[172] Driving this are the concerns expressed by some businesses about the complications of doing business across city and county lines where different regulations might apply.[173]

One response might be that the marketplace can handle such a potential complication. Legal ratchets simply allow—but do not guarantee—local experiments in expanding human rights. If local variations are too burdensome, businesses will have the opportunity to participate in the democratic process in order to overturn them locally, or to leave the market.

A more constructive response, however, might be to reframe the pre-emption challenge in terms of innovation and to deploy the design thinking techniques described above to engage businesses and other interested parties in designing a workable approach for all. This possible response is explored more fully below.

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170.   City of Boerne v. Flores, 521 U.S. 507, 527–28 (1997).
171.   *See, e.g.*, UNITED CITIES & LOCAL GOV'TS, DECENTRALIZATION AND LOCAL DEMOCRACY IN THE WORLD: FIRST GLOBAL REPORT 11 (2008) ("[I]t is in the local sphere that the sense of citizenship is reinforced and identities are constructed."); MIKE MCGRATH, PHILANTHROPY FOR ACTIVE CIVIL ENGAGEMENT, THE NEW LABORATORIES OF DEMOCRACY: HOW LOCAL GOVERNMENT IS REINVENTING CIVIC ENGAGEMENT (2009).
172.   *See* Jay-Anne B. Casuga & Michael Rose, *Are State Workplace Preemption Laws on the Rise?*, BLOOMBERG BNA, (July 18, 2016), https://www.bna.com/state-workplace-preemption-n73014444995/ (noting the argument that variations in wages threaten businesses).
173.   *Id.*; *see also* Patrick Gleason, *2017 Looks to be a Big Year for States Beating Back Local Tyranny*, FORBES (Dec. 6, 2016), https://www.forbes.com/sites/patrickgleason/2016/12/06/2017-looks-to-be-a-big-year-for-states-beating-back-local-tryanny/#632317103ee0 (arguing that patchworks of local laws make it costlier to do business).

D. Human-Centered Design and Governance

Beyond metaphors drawn from design principles, the tools of human-centered design thinking, described above, may be employed to address the vertical challenges facing cities, including salient state pre-emption issues that are currently frustrating city efforts at innovation.[174]

The first step in using these tools is to ascertain what local communities want and need out of their human rights; what are their priorities?[175] HRCs in the United States and elsewhere have devised a number of ways to listen to and observe inhabitants in order to get at this information. Some cities, like Vienna, Austria, have established human rights offices as mechanisms to gain these insights about human rights challenges and to provide human rights leadership within the city.[176] The city of Eugene, Oregon adopted the Triple Bottom Line to assess city policies, incorporating a human rights assessment directly into local decision making.[177] Montreal, Canada designated an ombudsman to address constituent concerns involving human rights issues.[178]

Having identified inhabitants' human rights needs through one or more of these mechanisms, some localities have successfully used a "co-design" process to move forward toward solutions. "Co-design" is a term that describes deep collaborations between multiple stakeholders of different perspectives, i.e., "collective creativity as it is applied across the whole span of a design process."[179] The approach

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174.   Design thinking is also well suited to addressing the horizontal implementation issues facing HRCs. Some cities are already employing these techniques as a tool of human rights policy formulation and implementation. *See* HUMAN RIGHTS CITIES AND REGIONS, *supra* note 39.

175.   *See, e.g.,* Chelsea Mauldin & Natalia Radywyl, *Human-Centered Research in Policymaking,* EPIC (June 20, 2016), https://www.epicpeople.org/human-centered-research-in-policymaking/ (discussing how design work and ethnographic research can allow policymakers to develop "human-centered values").

176.   *Vienna—City of Human Rights,* CITY OF VIENNA, https://www.wien.gv.at/english/social/integration/project-work/human-rights-city/process.html (last visited Oct. 4, 2017) (describing Vienna's Human Rights Office, which opened in September 2015).

177.   Neubeck, *supra* note 13, at 244–45.

178.   Benoît Frate, *Human Rights at the Local Level: The Montréal Experience, in* GLOBAL URBAN JUSTICE: THE RISE OF HUMAN RIGHTS CITIES, *supra* note 13, at 64, 72–78.

179.   Elizabeth Sanders & Pieter Stappers, *Co-creation and the New Landscapes of Design,* 4 CODESIGN 5, 6 (2008). Lawyers are increasingly using co-

is increasingly utilized by cities, in a variety of contexts, as a robust alternative to more traditional "community consultations" or legislative hearings.[180] It is also emerging as an effective model for the collaborations needed to form and strengthen an HRC. For example, the co-design process was used to develop the HRC platform put forward by the Swedish Association of Local Authorities and Regions.[181] This sort of participatory, collaborative approach is critical, particularly as a means to expose local government workers and residents to deep and ongoing human rights education and empathy. Importantly, the approach requires the buy-in of the full range of stakeholders. Advocates, city officials, city residents, and businesses must all participate—and on a basis of equality—if co-design processes are to be successful.[182]

Co-design processes are particularly well-positioned to bring business interests into a collaborative posture to resolve difficult tensions around local innovation within a state or national context. In most instances, business groups presumably raise concerns about local innovations and policy variations not because of any purely ideological positions, but because of genuine concerns about the impacts on members' profitability.[183] "Innovation," "co-design," and

design processes in their work. *See, e.g., Profiles in Civic Innovation: The NuLawLab at the Northeastern University School of Law*, CIVIC INNOVATION PROJECT, https://lourdes-german-v91l.squarespace.com/profileneu (last visited Oct. 1, 2017) (describing co-design process employed by law students at the NuLawLab). MIT also runs a co-design studio that generates civic media projects based on observed community needs. *See About*, CO-DESIGN, http://codesign.mit.edu/about/ (last visited on Oct. 4, 2017); *see also* John Chisholm, *Q&A: What is Co-Design?*, DESIGN FOR EUROPE, http://designforeurope.eu/what-co-design (last visited Sept. 16, 2017) (defining co-design and detailing its benefits).

    180.   *See, e.g.,* Matthew Ponsford, *Could 'Co-design' Help Peckham Where Community Consultation Failed?*, GUARDIAN (July 21, 2014), https://www.theguardian.com/cities/2014/jul/21/codesign-help-peckham-community-consultation-failed (describing co-design process for community development).

    181.   *See* HUMAN RIGHTS CITIES AND REGIONS, *supra* note 39.

    182.   For a discussion of the opportunities and challenges of co-design in the city, see Sheila Foster & Christian Iaione, *The City as a Commons*, 34 YALE L. & POL'Y REV. 281, 337–40 (2016). *See also* Barbara Bezdek, *Citizen Engagement in the Shrinking City: Toward Development Justice in an Era of Growing Inequality*, 33 ST. LOUIS U. PUB. L. REV. 3, 26–32 (2013) (identifying factors contributing to equality in community engagement and input).

    183.   Ideological conflicts do play a role in some instances, however. *See, e.g.,* Sophie Quinton, *Stateline: Expect More Conflict Between Cities and States*, PEW CHARITABLE TRUSTS (Jan. 25, 2017), http://www.pewtrusts.org/en/research-

"design thinking" are all common concepts in business, and are understood to be mechanisms for improving profitability and business success through the development of new or better-tailored services addressing customer needs.[184] Business interests that are currently working with state legislatures to quash local innovation might be enticed to participate in more familiar co-design processes given their track record of delivering value for business.[185]

Once a co-design process is in place, participants can use design thinking tools to ideate and iterate solutions to a locality's pressing human rights challenges—from policing issues arising from immigration crackdowns, to water affordability, to inadequate minimum wages. Design challenges for HRCs could even focus on the design process itself, asking for example: How might we achieve a productive balance between civil society and government in the implementation of an HRC, including in designing city spaces? And how might we ensure breadth of participation in addressing these design challenges facing HRCs situated within a less receptive state?

Finally, it is important to note that co-design processes need not compromise human rights baselines. Just like the uncompromising principles of physics that constrain engineers and architects, human rights may be set out as a constraint on the design process that establishes baselines that may not be breached. At the same time, the co-design process may yield new ways of honoring those rights. Given the current ways in which local innovation may be wholly shut down through state or federal pre-emption, co-design processes that involve the full range of stakeholders may yet yield some progress for localities, albeit within a context of empathy, negotiation, and compromise. Under the circumstances, even such "progressive realization" may be a victory for human rights of city residents.[186]

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and-analysis/blogs/stateline/2017/01/25/expect-more-conflict-between-cities-and-states (noting that conflicts between states and cities are both political and philosophical).

184.   Marc Steen, Menno Manschot & Nicole De Koning, *Benefits of Co-Design in Service Design Projects*, 5 INT'L J. DESIGN 53, 53 (2011) (stating that benefits of co-design for businesses can include "improving customers' loyalty, reducing costs, increasing people's well-being, and organizing innovation processes more effectively").

185.   *Id.* (endorsing the assumption that "co-design is critical to service design").

186.   Quinton, *supra* note 183 (quoting Philadelphia Mayor Jim Kenney on the lack of city power against the state, observing that "[a]ll [cities] can do is kind

CONCLUSION

When designers encounter human-centered design challenges, they begin by observing human behavior. Then they innovate and iterate, testing approaches in ways that reflect the human capacities and needs that they have observed. City leaders, advocates, and activists engaged with local human rights implementation in the United States might productively adopt a similar mindset: the mindset of a designer.

Like architects or product designers, HRC designers face constraints. For architects, it may be gravity and principles of physics and chemistry that circumscribe building plans. For designers of HRCs, the challenges may be equally intransigent: a federal administration that jealously guards its international prerogatives, a state constitution that limits local autonomy, competing economic interests, or basic human rights that should not be compromised.

Practical limitations of this kind must be taken into account, but they need not limit the imagination. Creative ideas, however impractical, often yield nuggets that will lead to workable solutions to expand human rights protections.[187]

A key component of design thinking is testing and iteration. Cities, for example, might test various methods of implementing local human rights. Perhaps, a co-design team posits, an ombudsman is effective in Montreal or in Stockholm, but would not be utilized in Des Moines. Or perhaps, a business representative argues, local wage variations would be impossible to manage if St. Louis mandated a different minimum wage than Branson.[188] There are ways to test these propositions through inexpensive, short-term experimentation, perhaps utilizing the free resources and entrepreneurial spirits of law school human rights clinics.[189]

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of maneuver, dodge and sue, and try to protect [them]selves [from pre-emption] as best [they] can").

187.   Tom Kelly & David Kelly, CREATIVE CONFIDENCE: UNLEASHING THE CREATIVE POTENTIAL WITHIN US ALL 23 (2013) (noting that designers "generate countless ideas" and pursue only a few).

188.   *See, e.g.*, Celeste Bott, *St. Louis $10 Minimum Wage Will Revert Back to $7.70 in August, Greitens Announces*, ST. LOUIS POST DISPATCH (July 1, 2017), http://www.stltoday.com/news/local/govt-and-politics/st-louis-minimum-wage-will-revert-back-to-in-august/article_0428b488-d4e2-5778-895b-f44ad92cc65a.html (discussing a bill that would ban local minimum wages in Missouri).

189.   *See, e.g.*, Davis, *supra* note 22 (examining law school labs).

The current political climate demands local innovation. Indeed, according to estimates, 66 percent of the world's population will be urban by 2050.[190] Yet, in the United States, most of our governance structures continue to depend on the federal government to provide leadership on human rights and use means such as the blunt instruments of federal and state pre-emption to deter innovations at the local level.

Litigation between levels of government is one mechanism for resolving these conflicts, but design approaches hold a different kind of promise. As with other local movements, establishing a stable base of municipal strength through broad alliances is key. Building on that base, local governments and advocates can begin designing in concert with other interested parties to address federal and state hierarchies, a process that can ultimately lead to transformation through new global collaborations, changes in local and international capacities, and transformations of domestic power.

The 2016 convening of the Global Parliament of Mayors demonstrates the momentum behind cities, a momentum that has only increased in the ensuing year.[191] At the same time, while mayors at the GPM discussed refugees, climate change, inequality, and civilian security, human rights is not yet on the formal agenda of the Global Parliament.[192] The HRC movement is a counterweight to this—and a way to ensure that the rise of cities is accompanied by an expansion of human rights as a local and global baseline of truly human-centered policymaking. This will only happen if civil society continues to position human rights as a design imperative for local governments and city constituents.

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190.   U.N. Dep't of Econ. & Soc. Affairs, Population Div., *World Urbanization Prospects: The 2014 Revision, Highlights*, at 7, U.N. Doc. ST/ESA/SER.A/352 (2014).

191.   On the Global Parliament of Mayors, see *supra* note 125 and accompanying text. A second convening of the GPM occurred in 2017, in Stavanger, Norway. According to the program, "[t]he GPM advocates for the right of cities to self-governance and to act on critical issues impacting humankind." *Critical Issues on the Program of the GPM Annual Convening 2017*, GLOBAL PARLIAMENT OF MAYORS, https://globalparliamentofmayors.org/empowering-cities-resilient-cities-safe-cities-inclusive-cities-program-gpm-annual-convening-2017-september-24-26/ (last visited Oct. 4, 2017).

192.   *See Critical Issues on the Program of the GPM Annual Convening 2017, supra* note 191 (discussing empowerment, resilience, safety, and inclusion as key issues for the GPM).