**OHCHR report on Local Governments and Human Rights, as mandated by the UN Human Rights Council**

**Contribution from the York Human Rights City Network (YNRCN), UK**

Work on York becoming a human rights city started soon after the 2008 economic and political crisis, and as such has taken place against the backdrop of austerity, rising inequality, Brexit, and growing political polarisation. The Human Rights Act was and remains under sustained critique, from political actors and much of the media. York Human Rights City Network (YHRCN) is a civil society partnership hosted jointly by York CVS (Centre for Voluntary Service) and the Centre for Applied Human Rights (CAHR) at the University of York.[[1]](#footnote-1) Among network members there was a sense that in the above context, and in a local setting, human rights work needed to be approached differently.

The core elements of YHRCN’s human rights framing are as follows. First, a bottom-up, more locally-informed approach. For example, the network took as a point of reference the PANEL principles from a human rights-based approach to development (participation, accountability, non-discrimination, empowerment, and the law), to generate a process based and locally informed understanding of human rights practice. Second, human rights are related to everyday and ordinary concerns, such as education, housing and healthcare. Third, presenting a more positive/balanced view of human rights is seen to be important. Therefore, human rights are not just about groups and causes that may be perceived as being unpopular, such as the due process rights of terrorist suspects or the rights of prisoners to vote (although it is in part about protecting such groups), nor are they simply about protecting minority groups against majoritarian interests. Human rights provides protection and a means of problem solving for all, and need to relate to majority as well as minority concerns. Forth, YHRCN sought to move beyond a naming and shaping, human rights-as-adversarialism, approach, to work with the City of York Council when possible, while retaining the right to criticise and hold to account when necessary.

York became the UK’s first human rights city in 2017. The declaration, signed in 2017 by the then Lord Mayor, was supported by all four major political parties in the city. There were two conflicting viewpoints regarding the timing: one, that York should not declare until it could demonstrate human rights competence against a clear set of standards; the alternate view was to consider the declaration as a mechanism to raise the profile of human rights in the city and as a platform to mobilise support and action. In the end we took the second route. The declaration notes that it ‘marks an ambition. A significant point on a journey, not a final destination’.[[2]](#footnote-2)

**Human rights cities: organs of the state or opponents of the state?[[3]](#footnote-3)**

From the perspective of international law, cities are first defined by their position as organs of states. International judicial and quasi-judicial bodies have recognised this status, although often not explicitly, as is demonstrated by the International Law Commission’s (ILC) ‘Articles on the Responsibility of States for International Wrongful Acts’ (ARSIWA). Article 4(1) of the ARSIWA stipulates that:

The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organisation of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State.[[4]](#footnote-4)

A ‘state organ’ is defined in further commentary by the ILC as meaning government of ‘whatever kind or classification’ and, crucially, including ‘those at the provincial or even local level’.[[5]](#footnote-5) The status of cities in international law thus relates directly to the lowest tiers of public administration within a nation state. States bear responsibility for these local authorities, meaning that, under international law, the ‘actions of cities will be treated as if they are the actions of the state’.[[6]](#footnote-6) In respect of the human rights agenda, local authorities have obligations to respect, protect and fulfil human rights as a result of the ratification of treaties by their respective central governments.[[7]](#footnote-7) Cities thus occupy a position subsidiary to that of the state, incurring significant responsibilities but remaining, to a certain extent, limited in their capacity to formally participate in the system of international law.

Within the literature, however, normative understandings of the city’s position in international law are beginning to shift. This has been driven by the increasingly international actions of cities, their local authorities, and civil societies on contemporary issues such as human rights, climate change and migration over the last twenty years. In this context, scholars have sought to connect the actions of cities with the rhetoric and rationale of non-state actors in international law. Cities, in deciding to invoke human rights principles or collaborate in transnational climate advocacy networks, are choosing to act in a manner akin to non-state actors, often driven by a desire to politically differentiate themselves from the practices of national government. Ssenyonjo argues that non-state actors can be defined as operating ‘largely or entirely autonomous from central government funding or control’ (local governments have some independent capacity to raise funds); ‘operating or participating in networks which extend across the boundaries of two or more states’; and ‘acting in ways which affect political outcome’. [[8]](#footnote-8)

Our contention is that for much of its history the YHRCN has worked in collaboration with partners, including the City of York Council, as a non-governmental organisation, blurring any hard boundary between civil society and the Council in the city while contesting national government policies on human rights (among others). Much of this document reflects on the successes that can be secured by adopting such a role, barking back to dominant political parties and discourses at a national level. In the past year, however, as the Council aligned itself with national government policies on security, using security concerns to trump other rights (in this case Blue Badge disability access to the city centre), our approached changed to one in which the YHRCN as a conventional non-state actor critiqued, and sought to hold to account, the Council as an organ of the state. This surfaces a fundamental tension facing all human rights cities: are we organs of the state or opponents of the state.

**Core activities of the YHRCN**

The section below sets out the major activities and mechanisms developed by the YHRCN, with a focus on the right to equality and non-discrimination and the protection of persons in marginalised situations.

*The Indicator Reports[[9]](#footnote-9)*

The main vehicle for delivering the approach set out above is an annual Indicator Report. A survey of local residents and a series of focus groups identified five priority rights selected from a non-exhaustive list of rights: education, health and social care, housing, an adequate standard of living, and non-discrimination and equality. The outcome of this survey supports the argument made by Bell and Cemlyn that in order to increase support for human rights in the UK attention should be shifted to everyday concerns, and especially socio-economic rights.[[10]](#footnote-10) A second phase of participatory engagement consisted of five focus groups, one on each priority right, with relevant local civil society actors. The focus groups were designed to start the process of identifying specific indicators linked to the five rights. The indicators were finally selected based on a combination of participation, expert consultation, and pragmatic decisions about available data. For example, we analyse hate crime and the gender pay gap in relation to equality and non-discrimination.

The YHRC approach to indicators has four core elements, underpinned by a desire to use indicators as accessible triggers for debate and action in the city, rather than as detailed points of reference for policy decisions. First, the network decided to focus on a few priority rights, each with a handful of priority indicators, rather than attempting to develop a more comprehensive approach - a priority list, not a shopping list. Second, both the development of the indicators and their monitoring should be participatory – as such, unlike many approaches to human rights indicators, we wanted the report to be owned by local residents. Third, both qualitative and quantitative data would be used. While numbers matter, and statistics can provide powerful advocacy and education messages, the YHRCN was also interested in accessing the experiences and perceptions of local people, which requires qualitative data and a focus on personal stories. The City Council, through York Open Data, largely collects quantitative data. A challenge for us has been to generate qualitative data for use in the reports. Fourth, engagement with the City Council was facilitated by involving the Council in the development of the indicators, providing them with a copy of the report prior to publication (for comment, not a veto on content), yet making clear, as noted above, that the YHRCN will retains the right to criticise the Council and hold it to account.

*Human Rights and Equalities Board*

Formed in early 2018, as a direct result of the city declaring itself a human rights city, the Human Rights and Equalities Board (HREB) is chaired by an elected member of the City Council with executive responsibility for Culture and Communities, and includes elected members from other political parties. There is some overlap between the membership of HREB and the YHRCN. The Board’s remit is two-fold. First, to address priority issues highlighted in the Indicator report; and, second, to develop strategic vision for the City Council with regard to human rights. On the first point, HREB has done some valuable work, for example securing participation of those who are Not in Education, Employment or Training (NEETs) in policies affecting them, and pushing the human rights content in the Housing First approach which is partially used in the city.[[11]](#footnote-11) Much less progress has been made on the second aspect of the Board’s remit. Some recent work to develop a Human Rights and Equalities Impact Assessment tool for Council policy-making represents the first attempt to provide a systematic, cross-sector approach to human rights within the local authority.

*Community Voices*

The Community Voices project seeks to engage with members of the public who, for whatever reason, are otherwise unlikely to participate in civil and public-sector life. This citizen engagement approach aims to facilitate people setting their own agenda, rather than being asked to respond to ideas generated by the City of York Council and other institutions. Many state- and civil society-led initiatives of this kind reach those already with a voice, and who are already organised. Using a human rights-based approach requires that interventions focus on the marginalised and excluded, who are engaged on their own terms, and enabled to identify their own priorities. From April 2018 this project has been undertaken by the YHRCN, and has focused on homelessness, hate crime and disabled groups.

*Work with young people and schools*

Initially through Opinionate workshops, the YHRCN sought to engage with secondary-age school pupils through the Independent State Schools Partnership (ISSP) to deliver interactive and activity-based human rights workshops two to three times each year. This entry-point was chosen because otherwise it is notoriously difficult to access schools for activities not directly related to the curricula and assessment. Workshops link global human rights instruments to national law, and local priorities to both, challenging the commonly-evidenced notion of human rights as something that happens ‘elsewhere’ and encouraging pupils to recognise the relevance of human rights in their own lives and at the local level. Outputs of these workshops have included the creation of a human rights council within one of the schools, and original films and animations. The YHRCN supported the production of a Young Persons’ Indicator Report, the findings of which features in the Network’s 2021 Indicator report.[[12]](#footnote-12)

More recently, work has been done to support the City of York Safeguarding Partnership (CYSCP), working with the NGO RealisingRights, to embed children’s rights protected in the UN’s Convention on the Rights of the Child across the city. Alongside this initiative, schools are being supported to become UNICEF rights-respecting schools. Arguably, work with schools is one area where a systemic, city-wide approach to human rights is emerging.

*Raising the profile of human rights in the city*

Events of various kinds are a core component of a human rights outreach agenda, often seeking to reach new audiences in innovative ways. As such, the YHRCN has become part of the structured visibility of human rights in the city.

*Annual human rights film festival:* The YHRCN has organised an annual human rights film festival most years, in various formats (in 2021, the festival was fully online).

*Supporting disability rights:* The YHRCN supported the setting up of the York Disability Rights Forum (YDRF) as a platform championing disability rights in the city. Both the YHRCN and YDRF help to organise events linked to the International Day for Persons with Disabilities, which is now a regular feature in York’s calendar.

*Promoting women’s rights*: Similarly, the YHRCN has since the autumn of 2017 provided support for the organisation of the York International Women’s Week (YIWW).

**What happens when it all goes wrong? The Blue Badge issue in York**

In June 2020, the footstreet area in central York was extended (temporarily) due to the Covid-19 pandemic. In February 2021, the City of York Council released a statement detailing plans to make these changes permanent. Several arguments were put forward for restricting access to the city centre. In addition to the pandemic, these included supporting the local economy, environmental benefits, and the need for enhanced counter-terrorism measures. Blue Badge holders – a badge for disabled people who need to park closer to amenities and services they use - argued that any measures should not further restrict their city centre access in a discriminatory manner. Despite consultations, fundamental differences of opinion remained, and the issue became highly polarised in the city. In November 2021, the Council’s Executive voted to make permanent the ban on disabled people using Blue Badges from accessing footstreet areas in the city centre, on the grounds of concerns about a terrorist attack. Among the challenges that emerged from this process are the following:

* The extremely poor quality of Council Equalities Impact Assessments, which while acknowledging equalities issues initially noted no human rights concerns, and when challenged only documented concerns about the right to life in the event of a possible terrorist attack (Article 2, Human Rights Act). The YHRCN had been about to embark on training for Council staff to roll out its new Human Rights and Equalities Impact Assessment (HREIA) tool.
* In the late autumn of 2021, the Human Rights and Equalities Board (HREB) asked the YHRCN to write a policy paper on the human rights implications of the decision. The paper highlighted the fact that any decision required a complex balancing of rights (in an effort to secure security *and* access), that majority concerns should not simply over-ride minority considerations, and that non-discrimination and participation needed to anchor the decision made.[[13]](#footnote-13) The YHRCN asked twice for the HREB to meet to consider the report it had commissioned. These requests were rejected, and in the end the HREB took no position on the issue. Having a member of the ruling coalition chair the Board has obvious advantages in terms of providing access to power. However, in this case the Chair sided with his party in voting in favour of the Blue Badge exclusion.
* Community Voices had worked extensively with disability groups in the city throughout 2021. While groups mobilised, and agendas were articulated, in the end the majority voice of disabled groups was ignored. There is a real danger that working with groups not reached by normal consultation processes only for their views to be ignored results in such groups feeling further marginalised.
* Blue Badge access has become a highly politicised issue in York. The Executive of the City of York Council, consisting of Liberal Democratic and Green Party councillors, voted unanimously in favour of the measure. The centre-left Labour Party is the main opposition, both politically and in relation to Blue Badge access. Having worked very hard over the years to engage with all political parties, and having successfully collaborated with different administrations, the concern is that the YHRCN will become associated, despite its best efforts, with a particular political party.

As a result of the November decision, the YHRCN’s is looking to reset its relationship with the City Council. HREIA training is on hold; the HREB has not met and is not scheduled to meet; and Community Voices is also no longer functioning. Consultations are ongoing with the political parties and are planned with the leaders of the governing coalition. But the human rights architecture in the city established over several years stumbled when confronted with a difficult issue. We have moved from the civil society-led YHRCN and City Council championing human rights and acting collectively to develop an alternative human rights narrative to the prevailing one at a national level – thus resembling the actions of non-state actors –, to a situation where the City Council has acted as an organ of the state, embracing the government’s framing of human rights that often uses security concerns to trump all other rights.

**Conclusion**

The most recent YHRCN Indicator Report was subtitled ‘A Reason to Believe?’. To move forward, the YHRCN has asked the Council leadership, among other things, for a clear statement on what its commitment to York being the UK’s first human rights city means. York is at a cross-roads with an unclear future direction of travel. Our dilemma reflects the fact that the label of ‘human rights city’ does not distinguish between local government and civil society; human rights cities have been originated by one party or the other depending on the dynamics of the city. The UK’s second human rights city, Swansea, was initiated by the local authority, for example. Ultimately the potential of human rights cities to be distinctive and innovate actors in the human rights movement depends on negotiating this tension: how do we mobilise the potential of being, or at least being close to, an organ of the state, while retaining the potential to be an opponent of the state – to critique and hold to account?

1. The network was formed in 2011, and has grown organically over the intervening years. Our Steering Group comprises representatives from civil society organisations and we also work with representatives of the public sector in York, most notably the City of York Council. [↑](#footnote-ref-1)
2. The declaration is available at: https://www.yorkhumanrights.org/human-rights-city-declaration/ [↑](#footnote-ref-2)
3. This section draws on work and a framework developed by Alice Trotter, a PhD student at the Centre for Applied Human Rights, University of York. [↑](#footnote-ref-3)
4. United Nations General Assembly, ‘Responsibility of States for internationally wrongful acts’ (adopted 8 January 2008) UN Doc. A/RES/62/61 para. 4(1). [↑](#footnote-ref-4)
5. ‘Yearbook of the International Law Commission’ (Volume II Part Two, 2001) UN Doc. A/CN.4/SER.A/2001/Add.1 (Part 2) 40, at para. 6. [↑](#footnote-ref-5)
6. I Brownlie, *Principles of Public International Law* (4th edn OUP, 1990), at 446-55 as cited in G Frug & D Barron, ‘International Local Government Law’ (2006) 38(1) The Urban Lawyer 1, 19. [↑](#footnote-ref-6)
7. United Nations Human Rights Committee, ‘General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’ (26 May 2004) CCPR/C/21/Rev.1/Add.31 para. 4. [↑](#footnote-ref-7)
8. M Ssenyonjo, ‘The Applicability of International Human Rights Law to Non-State Actors: What Relevance to Economic, Social and Cultural Rights?’ (2008) 12(5) The International Journal of Human Rights 725, 727. [↑](#footnote-ref-8)
9. YHRCN has currently published six reports, available at: <https://www.yorkhumanrights.org/current-work/human-rights-indicator-report/>. The fifth report, in 2020, was unusual in that it focused on the Covid-19 pandemic in the city. [↑](#footnote-ref-9)
10. K. Bell and S. Cemlyn, ‘Developing Public Support for Human Rights in the United Kingdom: Reasserting the

Importance of Socio-economic Rights’, (2014) 18 (7-8) International Journal of Human Rights, 822-41. [↑](#footnote-ref-10)
11. Housing First differs from Resettlement, where progress is conditional on approved behaviours, because it provides housing first, as a matter of right, not last or as a reward. Homeless Link, Housing First in England: The Principles, p. 2. Available at: https:// hfe.homeless.org.uk/sites/default/files/attachments/The%20Principles%20for%20Housing%20 First.pdf [↑](#footnote-ref-11)
12. Available at: https://www.yorkhumanrights.org/wp-content/uploads/2022/03/York-Human-Rights-City-Network-Indicator-Report-for-2021-FINAL.pdf [↑](#footnote-ref-12)
13. YHRCN, Human Rights Report on Blue badge Exclusion in York, October 2021. Available at: https://www.yorkhumanrights.org/blue-badge-access/ [↑](#footnote-ref-13)