

## **Human Rights City Graz: Lessons Learnt from the First 15 Years** **By Klaus Starl<sup>1</sup>**

This paper pursues the following goals: to understand the specific environment in which the local human rights policy of Graz is embedded and how it developed over time, to answer the question what difference a human rights policy against hate speech in political discourse makes for the individual citizen or resident and to determine what general conclusions for successful responses to human rights challenges at the local level can be drawn from the example of Graz.

### **Graz as a Human Rights City**

When PDHRE (Peoples Decade for Human Rights Education) published and lobbied its human rights cities approach in 1995, it was a method for empowerment as well as societal development towards inclusion through human rights education and learning rather than a political concept addressed to politicians and government officials.

The PDHRE concept is influenced by the notion of the right to the city; by experiences of oppression and suffering of groups and individuals; by the human security concept, as well as by rights-based approaches to governance (Marks et al 2008, Soohoo 2016).

Convinced by the idea that human rights learning was the key to a local culture of human rights, inspired by Roosevelt's notion of making them a reality 'close to home' and fueled by the first multi-level-governance approaches of the UN Millennium strategies, the then-Austrian Minister for Foreign Affairs announced at the UN Millennium Assembly that Graz would become the first human rights city in Europe.

In 2001, Graz was the first city where the city council declared the city a human rights city, adopting the Graz Declaration on Human Rights, on the basis of the PDHRE methodology. The bottom-up approach was turned into a top-down policy. The Declaration provides that

The City of Graz, especially the members of the City Assembly and of the City Government will be guided in their actions by the international principles of Human Rights. In this way the inhabitants of the City will be informed about the established codes of human rights and about the rights and obligations derived therefrom. It is the objective, especially with regard to those who bear responsibilities in public institutions that the respect of the norms of pertinence to human rights at all levels of society, in the formulation of general rules and in decisions concerning the future development of the City of Graz will assume an important role. With this Declaration [...] the City of Graz expresses its understanding of culture and of human dignity.

---

<sup>1</sup> The author is a senior scholar at the European Training and Research Centre for Human Rights and Democracy at the University of Graz, Austria. This contribution is a summary and update of the author's chapter 'Human Rights and the City: Obligations, Commitments and Opportunities. Do Human Rights Cities Make a Difference for Citizens and Authorities? Two Case Studies on the Freedom of Expression.' (pp. 199-219), in: Barbara Oomen, Martha F. Davis and Michele Grigolo (2016). *Global Urban Justice. The Rise of Human Rights Cities*. Cambridge: Cambridge University Press.

(Menschenrechtserklärung der Stadt Graz 2001).

In brief, the Human Rights Declaration of 2001 contains four core elements:

- Human rights norms and principles as guidelines for local government;
- Identification of deficits and good practices within the administration and beyond;
- Mainstreaming of human rights and reach out to the private sector;
- Empowerment by human rights education in order to influence societal development towards a culture of human rights.

Even though the declaration is rather general in wording, it is concrete and specific enough to operationalize these four main elements, formulate short-, medium- and long-term goals and to measure progress towards their achievement.

After this first important step was taken, Graz became a member to the European Coalition of Cities against Racism (ECCAR) in 2006 and started to adopt 'Action Plans' promoting equality and fighting discrimination within ten topics and five areas of municipal functions (democratic entity, rule-maker, service provider, employer and contractor). It is important to mention the election of a new mayor in 2003. There was no strong identification with the human rights commitment in the first years of the new government, however, with the accession to the ECCAR, this attitude changed significantly within the government. Political changes are important influences to programming and it might be a substantial conclusion that new ways, 'branding' and 'envelops' can lead to the necessary persistence of substance. The major driver for the human rights city process during the period of stagnation at the political level was less surprisingly the organized civil society.

The next phase can be described as the process from actionism ('omissionism') to strategic planning and institutionalization, i.e., identifying human rights relevance of daily routine; implementation under consideration of proportionality, transparency and accountability; and monitoring and evaluating outcomes. The city has been active in the fields of interreligious dialogue, integration of 'migrants', and disability issues, as well as citizenship and participation. However, for a long time these efforts were not seen as human rights policies. Human rights issues were characterized at that time as additional efforts – e.g., if there is enough funding available – mainly organized in projects or awareness raising events, often funded by the EU through its anti-discrimination programs.

The Municipal Human Rights Council (MHRC) was established by the mayor in 2007. It is an advisory board for the government and the City Council on human rights related issues and is assigned to conduct human rights monitoring at the local level. It has its own statute, a president and an executive office with a reasonable budget. It independently decides on its work program annually. Its main task is to compile the city's annual human rights report. It is not an ombuds-office and has no power to receive complaints or to represent individual cases. Members represent the judiciary, children's rights ombud, women's rights ombud, foreigners' council, academia, civil society organizations, police, religious leaders, members of the City Council and other stakeholders at local level. The foundation of the MHRC marked an important milestone in the development of human rights policies in Graz. Within the MHRC the already-existing agendas and topics were brought together under a 'human rights umbrella'. In particular, the human rights report had

a significant impact on the substance of policy, and on the human rights literacy of the city officials, as well as on the human rights awareness within the population. With the MHRC the initial top-down approach evolved to a cooperative implementation model.

### **Fighting Hate Speech in Political Discourse**

Since the 1980s right-wing nationalist and populist parties have launched defamation and hate speech campaigns not only, but particularly during election campaigns at the expense of foreigners, Blacks, migrants, asylum seekers, Muslims, Roma, homeless and poor people, and other groups vulnerable to marginalization and discrimination. These campaigns became ever more hostile and unacceptable. Statistics of the anti-discrimination offices clearly showed that these campaigns had an impact on the number of reported cases of discriminatory offenses in public spaces. In 2007 for example, when the Freedom Party (FPÖ, the most important right-wing party in Austria) led an extremely anti-Islamic campaign for the municipal elections in early 2008, the reported cases on offenses on grounds of religion increased from 15 to 40% of all complaints filed with the municipal anti-discrimination office (Menschenrechtsbeirat der Stadt Graz 2008: 68). Complaints included discrimination, harassment, and violent attacks against individuals and homes for asylum seekers and devastation of graveyards. Therefore, human rights groups developed a concept for monitoring instruments of political discourse and recommended it to the city government. After the city joined ECCAR, city representatives including the mayor called for actions against this vicious cycle while respecting freedom of speech and political neutrality concerning the competition of constitutionally acknowledged political parties.

The Austrian legal framework for human rights implementation at the local level is favorable. International human rights norms are constitutional law to a large extent. The constitutional hierarchy obliges all governance levels to obey human rights law according to the respective competences. Furthermore, municipalities and regions are independent legal entities and accountable for human rights compliance.

The Convention on the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, ECHR 1950) is part of the Austrian constitution and guarantees freedom of expression in Article 10 and non-discrimination on any ground in Article 14. Austria is also state party to the Convention on the Elimination of Racial Discrimination (CERD). The state expressed a reservation on Article 5 (prohibition of hate speech) in respect to the freedom of speech. Full freedom is guaranteed to all parties by the constitution except where they fall under the Prohibition Act (prohibiting any NAZI propaganda).

The proposed measures against hate speech are restrictive interventions to the freedom of speech through a local commitment. The relevant laws and decisions at the local level are the Declaration on the use of racist, anti-Semitic and xenophobic elements in political discourse (ECRI 2009), and the accession document to the ECCAR of 2006, including Graz's respective Ten Point Plan of Action, which explicitly prohibits hate speech in political discourse.

### **The human rights election campaign monitoring in Graz**

Since 2006/2007, the election authority of the city of Graz regularly assigns the MHRC to monitor election campaigns with the motto 'no campaigning at the expense of humans' and provides financial resources to support that activity. The intention of this monitoring is to publicly oppose violations of human rights and to animate citizens as well as political parties to critically look at the human rights aspects of political programs and speech. Discriminatory or hate speech is perceived unacceptable in political discourse, and officially declared as incompatible with the status of a 'Human Rights City' and membership in ECCAR in several city council decisions.

The monitoring committee members are recruited from among the MHRC members, who work pro bono. The committee collects all election campaigning material, press reports and statements of all political parties. It evaluates their content against human rights standards enshrined in relevant human rights law and developed by national and international jurisprudence. The committee applies legal and discourse analysis in its work, and compiles its findings and assessments in a monitoring report (Menschenrechtsbeirat 2007: 4-13). The reports are published by the MHRC in cooperation with the media every two weeks within a period of six to eight weeks before the elections.

The reports are subdivided into categories of racism/hate speech, women's rights/gender equality, children's rights, religious rights/minority rights, and rights of persons with disabilities. This list may be extended depending on the topics brought up by the political parties themselves. For the broad public, topics are marked with traffic lights: red for 'no go', yellow for problematic statements or views, and green for human rights-promoting campaigning. In Graz, the monitoring is an official municipal effort, and therefore the monitoring needs to respect impartiality concerning the political content. It strictly concentrates on the human rights aspects of the political discourse. Both, negative and positive statements are monitored and evaluated in order to ensure impartiality of the municipality. Otherwise it would appear as a voting recommendation. The monitoring itself must respect the freedom of speech. A highly important issue is to clearly respect the boundary line of the judiciary. The monitoring can analyze the discourse and evaluate it in respect to human rights, but can never make a decision whether statements made by politicians would be a breach of the law, which is the task of regular courts only (Menschenrechtsbeirat 2007).

After the first monitoring process was completed, the city council introduced a sanction mechanism in order to hold politicians accountable. This was already recommended by the Council of Europe's monitoring committee on racism to the Republic (ECRI 2009: para. 76), which is a good example of the interplay between international monitoring bodies, civil society, the national legislator and the local government.

Under the sanctioning mechanism, the findings of the election campaign monitoring report are negotiated at an independent arbitration committee, chaired by the president of the appellate court, which recommends the City Council adopt an eventual reduction of subsidies for the political parties concerned. Sanctions are foreseen up to €30,000.

### **High Court Decision, Impact and consequences**

The first monitoring led to the conviction of a politician because of incitement,<sup>2</sup> a conviction made possible because of the body of evidence compiled by the monitoring committee in its monitoring report and its annexed database<sup>3</sup> with all statements made in public by the convicted candidate or her party fellows.

The facts were as follows. Over months during the election campaign, the FPÖ spread mainly two lines of arguments against Muslim believers. First, it was stated that an (alleged) mass immigration by Muslims ('immigration-tsunami') endangered social coherence and fundamental rights because of the hostile nature and barbaric culture of immigrants. Thus, they should have been 'thrown back to where they came from.' Secondly, Islamic values were undermined by stating that Islam could not be considered a religion as its founder was a 'Warlord' and a child abuser. The latter would justify child marriages by his devotees. After the FPÖ candidate delivered this kind of hate speech in public broadcasts, the public prosecutor brought a charge of incitement against the candidate.

The court opined that all 'these expressions were objectively appropriate to create hostile and inhuman emotions within the population and thus, to foster an aggressive and hostile attitude towards the group of Muslims. [...] [S]emantically, this means nothing less than denying residence to persons living in the country only because of their faith.'<sup>4</sup> Therefore, the court concluded, the intervention into the freedom of speech was fully justified. This was the first time that a politician was held accountable by a court for what she said in public during campaigning with reference to human rights in Austria.

When the discussion of an election campaign monitoring as a concrete implementation of the municipal prohibition of hate speech started, sceptical voices prevailed because the concept foresaw an assessment of human rights compliance by the committee. This was deemed an interference with the right to expression, unnecessary in a democratic society. However, the committee could convince the mayor and the competent authorities that the political commitment needs to be enforced for the reasons that hate speech is a crime and leads to real offences against the targets of incitement. The courts shared this opinion.

This legal clarity on the limits of free speech led to an institutionalization of the election campaign monitoring. It will be conducted for the fourth time during the upcoming elections in 2017.<sup>5</sup>

Most importantly, the institutionalization of the monitoring led to an improvement in political discourse and consequently a reduction of reported offences in public space (Grabovac 2013).

Awareness-raising through the media led to a broad public discussion and to higher awareness of human rights issues at the local level. Freedom of speech was discussed in local newspapers, and political parties justified their programs by referring to human rights. Finally, the policy served as a good practice for other municipalities. The example was fully

---

<sup>2</sup> Appellate Court (*Oberlandesgericht*, OLG) Graz, judgment of June 30, 2009 (11 Bs 146/09t).

<sup>3</sup> The database contains about 600 entries in total for each monitoring.

<sup>4</sup> Appellate Court. Translation by the author.

<sup>5</sup> Three times monitoring municipal, one time regional elections.

followed by Salzburg, partly by Vienna, and similarly by London and Barcelona (Grigolo 2010).

### **Lessons Learnt: Success factors and transferability**

What distinguishes a human rights city from a city observing human rights standards – what makes up a ‘Human Rights City’? Is there a formal commitment? Is there a transparent process implementing human rights according to the commitment? Are structures established that guarantee sustainability over electoral and fiscal cycles? Does it make a difference for the people concerned, in other words: is the implementation of the commitment effective? (Marx et al 2015).

A city can be called a human rights city if its governing bodies explicitly decide to shape and actually implement its policies towards maximum achievable human rights fulfilment in any way that a culture of human rights within the municipality and within the society as a whole evolves and becomes a reality in the perception and in the living conditions of its citizens by establishing structures and processes accordingly, including evaluating the policies’ outcomes.

This proposed definition requires a formal decision and declaration which expresses the municipality’s self-commitment. Besides the principle of rule of law, this is deemed necessary as a reference for political action by political parties, authorities, and importantly by civil society. It builds the basis for accountability. A formal commitment makes the difference to other municipalities which probably comply with human rights standards, but do not declare human rights policy-making as a core task. This means that all structures, decision-making processes, policy implementation, and institutions are oriented towards the fulfilment of human rights.

A commitment towards the maximum achievable standards is required to distinguish a human rights promoting city from a human rights respecting city. Finally, the focus needs to be put on factual achievement and thus aims at creating an atmosphere of mutual respect for dignity, freedom, equality and – more contested – solidarity within the society. Serious intention is indicated by the commitment to evaluate the results.

Municipal human rights policies require permanent critical reflection and the permanent effort to change things to the better. Work has to be done at different levels: political, administrative, civil society and the general public. Innovative methods and communication to get heard especially in the administration, as well as to reach out to the public and individual citizens are needed.

Achieving consciousness that human rights matter in everyday life and pursuing progress towards equality (through equal treatment, equal opportunities and inclusion) are essential for a credible human rights policy in the city.

Human rights policy is about the response to experiences of injustice. Therefore, the call is to identify with all available means, injustice, discrimination and unequal opportunities, to prevent and eliminate them.

