



General Assembly

Distr.: General
4 September 2014

Original: English

Human Rights Council

Twenty-seventh session

Agenda items 3 and 5

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Human rights bodies and mechanisms

Progress report of the Advisory Committee on the role of local government in the promotion and protection of human rights, including human rights mainstreaming in local administration and public services*

* Late submission.

GE.14-15562 (E)



* 1 4 1 5 5 6 2 *

Please recycle



Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–5	3
II. Definition of local government	6–12	3
III. Legal and regulatory framework of local government	13–22	4
IV. Role of different tiers of government in the implementation of international human rights obligations of the State.....	23–29	6
V. Role of local government in respecting, protecting and fulfilling human rights	30–37	8
VI. Human rights city: conceptual framework and guiding principles.....	38–47	11
VII. Human rights mechanisms at the local level	48–51	14
VIII. Role of civil society in the planning and implementation of activities for the protection and promotion of human rights at the local level.....	52–55	15
IX. Best practices	56–59	15
X. Additional elements to be included in the final report	60	17

I. Introduction

1. In August 2012, the Advisory Committee submitted to the Human Rights Council for its consideration and approval a research proposal on local government and human rights (A/HRC/AC/9/6).
2. On 20 September 2013 the Council adopted its resolution 24/2 in which it took note of the above-mentioned research proposal and requested the Advisory Committee to prepare a research-based report on the role of local government in the promotion and protection of human rights, including human rights mainstreaming in local administration and public services, with a view to compiling best practices and main challenges, and to present a progress report on the requested research-based report to the Council at its twenty-seventh session, for its consideration.
3. The Advisory Committee was also requested to seek the views and inputs of Member States, relevant international and regional organizations, the Office of the United Nations High Commissioner for Human Rights and relevant special procedures, as well as national human rights institutions and non-governmental organizations, in order to prepare the above-mentioned research-based report.
4. During its twelfth session held from 24 to 28 February 2014, the Advisory Committee established a drafting group tasked with the preparation of the said report and designated the following members of the Committee as members thereof: Mr. Coriolano, Ms. Elsadda, Mr. Hüseyinov (Rapporteur), Ms. Reyes Prado, Mr. Seetulsingh (Chairperson), and Mr. Yigezu.
5. At the same session of the Advisory Committee, the drafting group developed a questionnaire, in accordance with Council resolution 24/2, which was disseminated to various stakeholders. As at 4 August 2014, a total of 67 responses had been received: 22 from States, 20 from national human rights institutions, 9 from non-governmental organizations, 12 from local authorities and 4 from international or regional organizations.

II. Definition of local government

6. Local government is commonly defined as the lower tier of public administration within a given State. In unitary States, local government usually comprises the second or third tier of government, whereas in federal States, it is constituted as the third or sometimes fourth tier of government. The organization and functioning of local government vary considerably between countries. Different names are used for local government entities in different countries (county, prefecture, district, city, town, borough, parish, municipality, village, etc.). Local governments exist geographically both in urban and rural settings.
7. Local governments perform three main roles: they promote sustainable and successful development of their territory, in the interests of their citizens; they organize, commission, finance and deliver essential public services, both universal and targeted to those most in need; and they act as the democratic voice and advocate for their communities.¹

¹ See *Council of Europe, European Charter of Local Self-Government and Explanatory Report* (Strasbourg, 2010). Available from www.ccre.org/img/uploads/piecesjointe/filename/charter_sgi_EN.pdf.

8. Local government aims at bringing government to the grass-roots and enabling citizens to participate effectively in the making of decisions affecting their daily lives. As the level closest to the citizens, local government is in a much better position than central government to deal with matters that require local knowledge and regulation on the basis of local needs and priorities.

9. Local governments possess certain powers conferred upon them by legislation or the directives of the higher levels of government. Those powers consist, in substance, in regulating and managing certain public affairs and delivering certain public services. The extent of the powers of local government should always be analysed in the context of relations between local authorities and central government or regional authorities (in federal States). One of the important features of local government is that it has a specific, subordinate regulatory power for the exercise of its functions which is, however, subject to compliance with the law.

10. Although in some countries “local government” and “local self-government” are used interchangeably, given the fact that local government has different forms in different countries, these two concepts should be differentiated. Local public administration can be exercised not only by local self-government entities (e.g. municipalities), but also by local units of State administration; the former are directly elected by the local population and enjoy wide-ranging autonomy, whereas the latter act as agents of the higher authorities and their officials are appointed by and responsible to those authorities. Local self-government is based on the principle of decentralization, and local State administration is based on the principle of deconcentration.

11. The degree of self-government enjoyed by local authorities can be regarded as a key element of genuine democracy. In that regard, political, fiscal and administrative decentralization is essential for localizing democracy and human rights. It should be borne in mind that democracy is not possible without respect for human rights and no human rights can be achieved without democracy.

12. The role of local authorities should not be limited to mere executors of decisions taken and policies developed without them. On the other hand, local independence should have certain limits clearly prescribed by law, and mechanisms ought to be available for supervising the legality of local authorities’ activities.

III. Legal and regulatory framework of local government

13. To ensure effective local governance and adequate implementation of human rights at the local level, it is important to have a proper legal framework for local government. The organization, powers and functions should be clearly prescribed by law. Further, national legislation should delineate clearly the responsibilities and powers of central and local government authorities in relation to one another.

14. Local government should preferably be recognized in the national constitution; indeed in a number of countries, the constitutions specifically protect local government autonomy. It should be underlined that constitutional protection provides the greatest guarantee of stability. A specific law on local government passed by national parliament is the next best solution in that regard. In a few countries, legal safeguards are in place to maintain the stability of laws governing local government. In Hungary, for example, the Law on Local Authorities can be adopted or amended only by a two-thirds majority of the parliamentarians present. The same applies to any legislation restricting the rights associated with local self-government.

15. It is noteworthy that the principles of subsidiarity, decentralization and accountability are explicitly envisaged in a number of countries as main principles of local government. Furthermore, the respective laws provide for the right of local authorities to have recourse to a judicial remedy in order to ensure respect for such principles.

16. International law does not, in principle, concern itself with the internal territorial structure of the State. The relationship between a State and its local government is generally considered as an internal matter. In other words, it is a sovereign right of States to organize their local governments in accordance with their domestic legislation and to freely determine whether local governments are elected or appointed, and whether they can function independently or only with express approval from higher authorities, and which public services are to be provided by local government.

17. Nevertheless, certain rules and regulations have been developed, both at the international and national level, that directly relate to local government. It should be stressed that very few such rules are legally binding. Particular mention should be made of the European Charter on Local Self-Government, a regional treaty adopted in 1985 within the framework of the Council of Europe. The Charter, which has been ratified by all the 47 member States of the Council of Europe, is the first international legally binding instrument that guarantees the rights of communities and their elected authorities. It lays down common European standards to protect the rights of local self-government authorities.

18. Another legally binding instrument is the African Charter on Democracy, Elections and Governance² which was adopted by the African Union in January 2007. The Charter contains some provisions concerning local government. In particular, it obliges State parties to “decentralize power to democratically elected local authorities as provided in national laws” (art. 34). The Charter further stipulates that “given the enduring and vital role of traditional authorities, particularly in rural communities, the State Parties shall strive to find appropriate ways and means to increase their integration and effectiveness within the larger democratic system” (art. 35).

19. A number of instruments have been adopted under the auspices of the Council of Europe that are aimed at safeguarding local authorities’ rights, among them: the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (1980 and the three protocols thereto);³ the European Code of conduct for the political integrity of local and regional elected representatives (1999);⁴ the European Landscape Convention (2000);⁵ the European Urban Charter I (1992);⁶ the European Urban Charter II — Manifesto for a new urbanity (2008);⁷ and the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (2009).⁸ Reference should also be made to the following recommendations of the Council of Europe’s Committee of Ministers to member States that contain important principles and norms relating to competences, financial resources and capacity of local authorities: recommendation Rec(1998)12 on supervision of local authorities’ action; recommendation Rec(2004)12 on the processes of reform of boundaries and/or structure of local and regional authorities; recommendation Rec(2005)1 on the financial resources of

² Available from www.au.int/en/content/african-charter-democracy-elections-and-governance.

³ Available from www.coe.int/t/congress/texts/conventions/conventions_en.asp?mytabsmenu=6.

⁴ Ibid.

⁵ Available from <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=176&CL=ENG>.

⁶ Available from <https://wcd.coe.int/ViewDoc.jsp?id=887405>.

⁷ Available from <https://wcd.coe.int/ViewDoc.jsp?id=1302971>.

⁸ Available from

<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=207&CM=1&CL=ENG>.

local and regional authorities; recommendation Rec(2001)19 on the participation of citizens in public local life; and recommendation Rec(2004)1 on financial and budgetary management at local and regional levels.⁹

20. Two sets of guidelines approved by the Governing Council of the United Nations Human Settlement Programme (UN-HABITAT) in 2007 and 2009, namely guidelines on decentralization and strengthening of local authorities, and guidelines on access to basic services for all,¹⁰ should be considered as important contributions to the international standard-setting process in the field of local government. By approving those documents, States Members of the United Nations committed themselves to the promotion of decentralization and strengthening of local authorities, as well as access to basic services for all.

21. The existing regulatory framework for local government also includes rules and guidelines that have been developed by the global and regional associations of local government. Thus, the Council of European Municipalities and Regions, the largest European association of local and regional governments that brings together the national associations of local and regional authorities from 41 European countries, has drawn up a number of normative documents, among them: the European Charter of Municipal Liberties (1953);¹¹ the European Charter for Equality of Women and Men in Local Life (2006);¹² the European Charter on Local and Regional Services of General Interest (2009).¹³

22. United Cities and Local Governments, the largest local government organization in the world, founded in 2004, has greatly contributed to establishing a global normative framework for local government, particularly for cities. Special mention should be made of such important documents as the World Charter for the Right to the City (2005) and the Global Charter-Agenda for Human Rights in the City (2010).¹⁴

IV. Role of different tiers of government in the implementation of international human rights obligations of the State

23. As a matter of international law, the State is one single entity, regardless of its unitary or federal nature and internal administrative division. In that regard, only the State as a whole is bound by obligations stemming from international treaties to which it is a party. Thus, by becoming a party to an international human rights treaty, a State assumes obligations to respect, to protect, and to fulfil human rights. More specifically, only States are obliged to submit reports as required by the respective universal and regional human rights treaties and only States can be the subject of individual or inter-State complaints under certain of such treaties. Furthermore, a State appearing before an international human rights complaints mechanism cannot defend itself by claiming that the alleged violation was committed by a local authority.

24. It should also be emphasized that, under general international law, a State, as represented by the central government, is responsible for all acts of all its organs and agents.¹⁵ It is commonly recognized that “the conduct of any State organ shall be

⁹ Available from www.coe.int/T/CM/adoptedTexts_en.asp.

¹⁰ Available from <http://unhabitat.org/?wpdmact=process&did=NjkkLmhvdGxpbms=>.

¹¹ Available from www.ccre.org/docs/charter_municipal_liberties.pdf.

¹² Available from www.ccre.org/docs/charte_egalite_en.pdf.

¹³ Available from www.ccre.org/docs/charter_sgi_en.pdf.

¹⁴ See section VI of the present report.

¹⁵ In that respect, a reference could be made, *mutatis mutandis*, to article 50 of the International

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 organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State".¹⁶ In paragraph 4 of its general comment No. 31 (2004) on the nature of general legal obligations imposed on States Parties to the Covenant, the Human Rights Committee made it clear that all public or governmental authorities, at whatever level — national, regional or local — are in a position to engage the responsibility of the State party. Similarly, in paragraph 42 of its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights emphasized that violations of the rights contained in the Covenant can occur through the direct action of, failure to act or omission by States parties, or through their institutions or agencies at the national and local levels. It should be noted that the conduct of certain institutions exercising public powers is attributed to the State even if those institutions are regarded in internal law as autonomous and independent of the executive government.¹⁷

25. Illegal acts of any public authority, including local government, are attributable to the State even if they are ultra vires or contravene the domestic laws and instructions.¹⁸ That flows directly from the principle contained in article 27 of the Vienna Convention on the Law of Treaties, according to which a State party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

26. It is the central government which has the primary responsibility for the implementation of international human rights obligations of the State, while local government has a complementary role to play. Upon ratifying an international human rights treaty, the State may delegate implementation thereof to lower tiers of government, including local authorities. In that respect, the central government might need to take measures at the local level, in particular, to establish procedures and controls in order to ensure that the State's human rights obligations are implemented. Local authorities are obliged to comply, within their local competences, with their duties stemming from the international human rights obligations of the State. Representatives of local authorities should be involved in the drafting of national human rights strategies and policies. Local authorities are actually those who are to translate such policies into practical application. In decentralized States, local government can play a more proactive and autonomous role in the promotion and protection of human rights. Institutionalized cooperation on human rights between the central and local governments could have a positive impact on the level of implementation of the international human rights obligations of the State.

27. To comply with their human rights responsibilities, local authorities should have necessary powers and financial resources. Adequate implementation of human rights, particularly economic, social and cultural rights, by local authorities require financial resources which are not available everywhere; that should be taken into consideration both at the national and international level. It should be particularly emphasized that whatever

Covenant on Civil and Political Rights, according to which the provisions of the Covenant "shall extend to all parts of federal States without any limitations or exceptions".

¹⁶ General Assembly resolution 56/83, entitled "Responsibility of States for internationally wrongful acts", annex.

¹⁷ Commentaries to the draft articles on responsibility of States for internationally wrongful acts adopted by the International Law Commission at its fifty-third session (2001), *Official Records of the General Assembly, Fifty-sixth session, Supplement No. 10 (A/56/10)*, chap. IV.E.2, p. 82.

¹⁸ Article 7 of the annex to General Assembly resolution 56/83 (see note 16 above).

powers are conferred upon local authorities, they would not be effective if no financial resources are available to carry them out.¹⁹

28. The principle of shared responsibility of different tiers of government for the protection and promotion of human rights has been on several occasions underlined by the human rights treaty bodies and special procedures. Thus, in paragraph 12 of its general comment No. 4 (1991) on the right to adequate housing, the Committee on Economic, Social and Cultural Rights noted that States parties to the International Covenant on Economic, Social and Cultural Rights should take steps “to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant”. The Special Rapporteur on violence against women, its causes and consequences, when visiting Italy in 2012, did not only speak to representatives of the national government and various non-governmental organizations, but also visited Rome, Milan, Bologna and Naples, and in her subsequent report (A/HRC/20/16/Add.2) explicitly referred to the importance of local political will to address violence against women. In one of its judgments, the European Court of Human Rights stated that “the authorities of a territorial entity of the State are public-law institutions which perform the functions assigned to them by the Constitution and the law. In that connection, the Court reiterates that “in international law the expression ‘governmental organisation’ cannot be held to refer only to the government or the central organs of the State. Where powers are distributed along decentralised lines, it refers to any national authority exercising public functions”.²⁰

29. In the context of monitoring of the domestic implementation of international human rights commitments, the relevant United Nations mechanisms could be encouraged to engage in a dialogue with local governments as well. Local authorities should be involved in the universal periodic review in respect of their Government; that would improve the quality of the follow-up to the accepted recommendations. Recommendations made during the universal periodic review and the concluding observations of the treaty bodies should be disseminated by central government to the local authorities. A reference should also be made to the harmonized guidelines on reporting to the treaty bodies (HRI/MC/2005/3) in which the reporting States are encouraged to make sure that governmental departments at the central, regional and local levels and, where appropriate, at the federal and provincial levels, participate in the preparation of periodic reports (*ibid.*, para. 50).

V. Role of local government in respecting, protecting and fulfilling human rights

30. The legislation of a number of countries — in some cases, at the constitutional level — explicitly requires local government to respect human rights (e.g. Australia, Côte d’Ivoire, Morocco and Slovenia). In some other countries, the respective constitutional requirement applies to all public powers (e.g. Austria, Azerbaijan, Bosnia and Herzegovina, Germany, Kenya, Lithuania, Malaysia, South Sudan, Spain and Togo). In Luxembourg, the powers of the communes must be exercised in accordance with the law which means that

¹⁹ The European Charter on Local Self-Government (see note 1 above) provides that local authorities “shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers”, and that their resources “shall be commensurate with the responsibilities provided for by the constitution and the law” (art. 9, paras. 1 and 2).

²⁰ *Assanidze v. Georgia*, application No. 71503/01, judgment of 8 April 2004. Available from <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61875>.

they are obliged to observe human rights guaranteed by the law. In some countries, the duty of local government to observe human rights is limited in the law to specific rights or principles. For instance, the Local Self-Government Act of Serbia stipulates that municipalities must ensure the promotion and protection of the rights of national minorities and ethnic groups. In Ireland, the local government legislation does not specifically provide for the promotion and protection of human rights, but in discharging their functions local authorities are required to have regard to the need to promote social inclusion. Similarly, the legislation on local governments in India does not specifically mention protection of human rights among their responsibilities; however, the constitutionally mandated municipal functions directly relate to core human rights, such as implementation of initiatives for democratic inclusion, welfare measures and local justice system.

31. Having an explicit legal provision which obliges local government to protect and promote human rights appears to be a preferable approach. Local authorities are thus made aware of their human rights responsibilities, understanding that any failure to comply with those responsibilities will entail their liability under national law as well as international responsibility of the State as a whole. Further, such a provision imposes a clear obligation on local authorities to apply a human rights-based approach to delivering public services within their defined competences. Consequently, it may well encourage rights holders to claim their rights vis-à-vis local authorities.

32. Local authorities are close to citizens' everyday needs and they deal with human right issues on an everyday basis. Therefore there exists a clear and strong connection between human rights and local government. When performing their functions, local authorities take decisions relating in particular to education, housing, health, the environment and law and order, which are directly connected with the implementation of human rights and which may enforce or weaken the possibilities of its inhabitants to enjoy their human rights. Actually, it is difficult to imagine a situation of human rights being realized where there are no local authorities to provide the necessary services. Local officials are thus responsible for a wide range of human rights issues in their day-to-day work. However, that work is rarely perceived as human rights implementation, either by the authorities, or by the public. Consequently, human rights remain distant as a frame of reference or analysis in most policies and practices at the local level, while they may actually be human rights in practice.²¹ In that regard, it should be borne in mind that the real effect of human rights is experienced locally.

33. Human rights duties of local government may be classified in three main categories: the duty to respect, the duty to protect and the duty to fulfil. The duty to respect means that local officials must not violate human rights through their own actions. It requires local government to refrain from interfering with the enjoyment of the rights and freedoms of all persons within its jurisdiction. For example, in relation to the freedom of religion, local government may not prohibit religious communities, beyond the permissible limitations, from using public squares or municipal buildings for religious celebrations. Regarding the right to health, local government may not deprive certain communities or groups of access to health-care facilities. The duty to protect requires measures to ensure that third parties do not violate the rights and freedoms of the individual. For example, local authorities are required to take action to ensure that children are not prevented by others from attending school. The duty to protect can necessitate creating safer urban environments that reduce

²¹ See Council of Europe, Congress of Local and Regional Authorities, Strasbourg, 25–27 March 2014, twenty-sixth session, document CG(26)5FINAL, “Best practices of implementation of human rights at local and regional level in member states of the Council of Europe and other countries (Rapporteur: O. Molin), Resolution 365 (2014), Explanatory Memorandum”, paras. 8 and 14. Available from www.coe.int/t/congress/texts/RESOLUTIONS_en.asp?mytabsmenu=6.

the risk of violence, for example against women. The duty to fulfil means that local government must take positive action to facilitate the enjoyment of the rights and freedoms. For example, local authorities are obliged to fulfil the right to education by sustaining a good educational system. To comply with the duty to fulfil the right of individuals not to be discriminated against, local human rights mechanisms such as ombudsmen or specialized anti-discrimination agencies can be established.

34. Further, local authorities should promote the understanding of and respect for human rights of all individuals within their jurisdiction through education and training. In particular, local authorities should organize, on a systematic basis, human rights training for their elected representatives and administrative staff and the dissemination of relevant information among citizens about their rights. By promoting human rights, local authorities can help build a culture of human rights in the community.

35. Local authorities should pay particular attention to the protection and promotion of the rights of vulnerable and disadvantaged groups, such as persons with disabilities, ethnic minorities, indigenous communities, victims of sexual discrimination, children and elderly people. In that respect, the quality of the services that local governments provide such groups “tests” the degree to which local governments in practice respect human rights.²²

36. In a number of countries, efforts are made to mainstream human rights into local authorities’ activities. Thus, measures are taken to foster participatory governance, to conduct human rights-based audits and impact assessments, to reframe local concerns as human rights issues, to establish procedures for verifying the compatibility of local policies and regulations with human rights, to report on local compliance with human rights treaties, to have a clear allotment in the municipal budget for the implementation of human rights, to provide systematic human rights training to local civil servants, to raise public awareness of human rights, etc. Drafting a local human rights charter (or, preferably, human rights ordinance which makes the charter legally binding)²³ setting out specific human rights responsibilities that fall upon the local government can be regarded as another important step towards localizing human rights. In that context, it is highly desirable that local authorities have human rights offices with sufficient human and financial resources that could fully take charge of human rights issues within the respective local competences.

37. The following are the key challenges faced by local government in the promotion and protection of human rights: lack of political will, long-term vision/planning and/or commitment; lack of autonomy, institutional capacity and/or resources; prevailing centralistic and/or non-democratic regimes; political conflicts and tensions in the country; the difficult economic situation in the country; non-recognition of the role and contributions from civil society; lack of adequate coordination between central and local government; and lack of understanding of human rights at the local government level.

²² International Council on Human Rights Policy, “Local Government and Human Rights: Doing Good Service” (Versoix, Switzerland, 2005), p. 6. Available from www.ichrp.org/files/reports/11/124_report.pdf.

²³ Human rights ordinances adopted in several cities of the United States of America, beginning from the San Francisco ordinance on the Convention on the Elimination of All Forms of Discrimination against Women, could be specifically mentioned as they represent a good example of incorporation of human rights into local policies and measures.

VI. Human rights city: conceptual framework and guiding principles

38. The idea of a “human rights city” is one of the globally developed initiatives aimed at localizing human rights. It is based on the recognition of cities as key players in the protection and promotion of human rights and refers in general to a city whose local government and local population are morally and legally governed by human rights principles. The initiative derives from the idea that, for international human rights norms and standards to be effective, all inhabitants of a city need to learn and understand human rights as a framework for sustainable development of their local community. The concept was launched in 1997 by the People’s Movement for Human Rights Education, a non-profit international service organization.²⁴ It was further developed, particularly as a normative concept, by the World Human Rights Cities Forum that takes place annually in the city of Gwangju (Republic of Korea).

39. The Gwangju Declaration on Human Rights City²⁵ adopted on 17 May 2011 defines human rights city as both a local community and socio-political process in a local context where human rights play a key role as the fundamental values and guiding principles.²⁶ A human rights city requires a shared human rights governance in the local context where local government, local parliament (council), civil society, private sector and other stakeholders cooperate together to improve the quality of life for all people in the spirit of partnership based on human rights standards and norms. A human rights approach to local governance includes the principle of democracy, participation, responsible leadership, transparency, accountability, non-discrimination, empowerment and rule of law. The concept of a human rights city also emphasizes the importance to secure the broad participation of all actors and stakeholders, in particular marginalized and vulnerable groups, and the importance of effective and independent human rights protection and monitoring mechanisms to which all people have recourse. It recognizes the importance of inter-local and international cooperation and solidarity among cities engaged in the promotion and protection of human rights.²⁷

40. The following factors could be indicated as the main reasons that have led to the emergence of “human rights cities”: (a) a shift from standard-setting to implementation, especially at that level of government, i.e. local government, which is best placed to realize human rights, in particular, economic and social rights; (b) the global trend, initiated in the 1980s, towards the decentralization of governmental powers — indeed, most countries in the world have, over the past decades, transferred important powers to local authorities;

²⁴ The Human Rights Cities Programme run by the People’s Movement for Human Rights Education (PDHRE) includes the development of 30 human rights cities and the training of 500 young community leaders at four regional learning institutions for human rights education.

²⁵ Available from www.uclg-cisdp.org/sites/default/files/Gwangju_Declaration_on_HR_City_final_edited_version_110524.pdf.

²⁶ PDHRE defines a human rights city as a “city or a community where people of good will, in government, in organizations and in institutions, try and let a human rights framework guide the development of the life of the community” (see “Human Rights Learning and Human Rights Cities: Achievements Report”, 2007; available from www.pdhre.org/achievements-HR-cities-mar-07.pdf). A human rights city has also been defined as “a community, all of whose members – from ordinary citizens and community activists to policy-makers and local officials – pursue a community-wide dialogue and launch actions to improve the life and security of women, men and children based on human rights norms and standards”. See Stephen P. Marks and Kathleen A. Modrowski with Walther Lichem, *Human Rights Cities: Civic Engagement for Social Development*. (UN-Habitat-PDHRE, 2008), p. 45. Available from www.pdhre.org/Human_Rights_Cities_Book.pdf.

²⁷ Gwangju Declaration on Human Rights City (see note 25 above).

(c) changes in global demographics: in 2008, for the first time in history, more than half of the world lived in towns and cities, and the number is expected to rise to almost 5 billion people in 2030. Cities hold a unique potential for human empowerment and for solving social and environmental problems. At the same time, they face important challenges in the field of social cohesion. With people from many different areas and backgrounds grouped together who have often moved to the city in search of individual autonomy, citizens and governments alike seek to identify a discourse that unites urban residents and forms a common frame of reference in setting out the mutual expectations of the city and its inhabitants.²⁸

41. The Gwangju Guiding Principles for a Human Rights City adopted on 17 May 2014²⁹ at the Fourth World Human Rights Cities Forum contains the following principles for a human rights city: the right to the city; non-discrimination and affirmative action; social inclusion and cultural diversity; participatory democracy and accountable governance; social justice, solidarity and sustainability; political leadership and institutionalization; human rights mainstreaming; effective institutions and policy coordination; human rights education and training; and right to remedy.

42. A number of cities throughout the world have officially declared themselves “human rights cities”,³⁰ and several international networks of cities have developed.

43. Other concepts have been developed, both in doctrine and practice, that essentially pursue the same objective. One of them is “the right to the city” first articulated by the French philosopher Henri Lefebvre;³¹ it refers mainly to the right of the inhabitants and “users” of the city to participate in local public affairs and define the space of the city.³² So far the concept of “the right to the city” has been limitedly institutionalized, examples being the City Statute of Brazil (2001),³³ the Montreal Charter of Rights and Responsibilities (2006)³⁴ and the Mexico City Charter for the Right to the City (2010).³⁵ The latter identifies six fundamental principles that are indispensable to promoting the right to the city: (a) the full exercise of human rights in the city; (b) the social function of the city, of land and of property; (c) the democratic management of the city; (d) democratic production of the city and in the city; (e) the sustainable and responsible management of the commons (natural, cultural heritage and energetic resources) of the city and its surroundings; and (f) the democratic and equitable enjoyment of the city.

²⁸ B. Oomen and M. Baumgärtel, “Human Rights Cities”, p. 4. Available from <http://mensenrechten.verdus.nl/upload/documents/Oomen%20Baumgartel%20Human%20Rights%20Cities%20v2%20March%202013.pdf>.

²⁹ Available from www.uclg-aspac.org/uploads/Gwangju_Guiding_Principles_for_Human_Rights_City_adopted_on_17_May_2014.pdf.

³⁰ Among them: Rosario (Argentina), which was the first human rights city initiated in 1997; Bandung (Indonesia); Barcelona (Spain); Bihac (Bosnia and Herzegovina); Bogota (Colombia); Bongo (Ghana); Copenhagen (Denmark); Graz (Austria); Gwangju (Republic of Korea); Kaohsiung (Taiwan Province of China); Kati (Mali); Korogocho (Kenya); Mexico city (Mexico); Mogale (South Africa); Montreal (Canada); Nagpur (India); Porto Alegre (Brazil); Prince George County (United States); Saint-Denis (France); Sakai (Japan); Thies (Senegal); Utrecht (the Netherlands); Victoria (Australia).

³¹ Henri Lefebvre, *Le Droit à la ville* (Paris, Éditions du Seuil, 1968).

³² The Habitat International Coalition and its Housing and Land Rights Network have worked over the past decade to promote and develop the definition of “the right to the city”.

³³ Available from www.ifrc.org/docs/idrl/945EN.pdf.

³⁴ Available from http://ville.montreal.qc.ca/portal/page?_pageid=3036,3377687&_dad=portal&_schema=PORTAL.

³⁵ Available at: www.hic-net.org/articles.php?pid=3717.

44. The right to the city was specifically laid down in the World Charter for the Right to the City (2005);³⁶ a wide range of organizations and networks, including UNESCO and UN-HABITAT, participated in the preparation of that important document. The Charter defines the right to the city as the equitable use of cities according to principles of sustainability, democracy, equity and social justice. It is a collective right of urban inhabitants that confers upon them the legitimate right to action and organization, based on respect of their differences, cultural expressions and practices, with the objective of exercising their right to self-determination and attaining an adequate standard of living. The right to the city is interdependent with other internationally recognized human rights, including civil, political, economic, social, cultural and environmental rights as defined in international human rights treaties. The Charter also claims as rights and corresponding obligations certain values not yet enshrined explicitly in international treaty law. Those include the social production of housing/habitat and the rights to “sustainable and equitable urban development”. The Charter also asserts a right to transport and public mobility, as well as a right to the environment.

45. The concept “the rights of the city” has emerged during the past decades as an alternative to the withdrawal of central and state governments’ responsibilities and resources in the globalized market. Many cities are increasingly subordinated to central decision-making institutions, public budgets and investment, whereas municipalities have to fend for themselves and/or compete over resources for development and services, often without the authorities to levy revenues or participate effectively in decisions affecting allocations. In such cases, local authorities face the prospect of resorting to the privatization of public goods and services — with their typically harmful economic consequences for the poor — and/or to seek fiscal support from the private financial market. The concept may refer to the administrative, political and economic rights of the local governments in relation to national/federal authorities, and to the presence and role of local authorities vis-à-vis the international and multilateral institutions (the United Nations, the World Bank, the International Monetary Fund, etc.).

46. The concept “the human rights in the city” developed mainly in the European Charter for the Safeguarding of Human Rights in the City³⁷ and Global Charter-Agenda for Human Rights in the City³⁸ implies: the commitment to respect, protect and fulfil all internationally recognized human rights at the local level; the commitment to give priority attention to marginalized groups and population living under vulnerable conditions; and the commitment to mainstream a human rights approach to local policies (not just the implementation of human rights programmes).

³⁶ Available from <http://portal.unesco.org> and www.hic-net.org.

³⁷ That important document is the result of the preparatory work initiated in Barcelona in 1998 in the framework of the Conference “Cities for Human Rights”, which was organized to commemorate the fiftieth anniversary of the Universal Declaration of Human Rights. Hundreds of mayors and political representatives participated in the event and united their voices to call for a stronger political acknowledgement as key actors in safeguarding human rights in a highly urbanized world. For more details, see www.uclg-cisd.org/en/right-to-the-city/european-charter#sthash.E5JeKdIt.dpuf.

³⁸ The Charter was drafted by the United Cities and Local Governments Committee on Social Inclusion, Participatory Democracy and Human Rights. It was discussed and approved by elected representatives, experts and representatives of civil society from all over the world in 2011. The added value of the Global Charter-Agenda for Human Rights in the City is that each human right featured in the document is accompanied by an action plan that serves as reference for specific steps for local governments to take. Signatory cities are invited to set up a local agenda with deadlines and indicators in order to assess their efficiency in implementing those rights. Full text of the Charter is available from www.cdp-hrc.uottawa.ca/uploads/Charter_Agenda_oct_2010_EN.pdf.

47. Apart from the cities that generally adopt human rights as a policy framework, there are also many cities that opt for basing policies on one particular treaty, and — in doing so — going further than the standards set nationally. One example is the way in which San Francisco adopted the Convention on the Elimination of All Forms of Discrimination against Women as a local ordinance in 1998. In adopting it, San Francisco agreed to be kept to the Convention's standards of human rights protection, and to establish a related task force. Over the years, that task force has focused on conducting gender analyses and on thematic areas such as violence against women, women in the workplace and girls. Another example of cities focusing on one particular human rights issue is the International Coalition of Cities against Racism, an initiative launched by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in March 2004 to establish a network of cities interested in sharing experiences in order to improve their policies to fight racism, discrimination, xenophobia and exclusion.³⁹

VII. Human rights mechanisms at the local level

48. The protection of human rights requires independent human rights mechanisms. Such mechanisms may take different forms in different communities, and there are several examples that could serve as a model — local ombudspersons, consumer complaints boards, patient injury boards, anti-discrimination agencies, etc. The competences and structures of those mechanisms can be very diverse, but they must be seen as important means of safeguarding human rights and handling citizens' complaints in the first instance. Importantly, the establishment of a local human rights mechanism gives visibility to the role of local authorities in human rights protection. In order to effectively discharge their functions, local authorities should be provided with sufficient human and financial resources and be accessible to everyone within the respective locality.

49. The European Charter for the Safeguarding of Human Rights in the City adopted in Saint-Denis in 2000 provides for the creation of ombudspersons as a prevention mechanism and also as a means of upholding human rights at the local level. Ombudspersons monitor local administrations to ensure they do not violate the rights and principles set down in the Charter.

50. Only a few States have human rights protection mechanisms at the local level. Thus, in Canada, ombudsperson offices are present in many local governments (e.g., in Montreal and Toronto). In Switzerland, several cities have established ombudsperson offices. Those offices are independent organs that mediate in case of conflicts between private individuals and authorities. Even though they are not authorized to make binding decisions, only recommendations, they have proven to be a successful means to resolve disputes. In the Republic of Korea, several local governments have established human rights commissions. In the Netherlands, complaints regarding human rights violations can be filed with the national ombudsperson or with the complaint mechanism of a municipality. In Denmark, the Copenhagen Citizens' Counsellor was the country's first citizen counselling institution established by the Municipal Council to create an independent ombudsman function in Copenhagen. Today 21 municipalities have a citizen counselling institution. Municipalities in Norway have ombudspersons for certain administrative areas. In Bosnia and Herzegovina, a number of local governments have established a human rights commission which acts as an advisory body to municipal councils, although it is not a true mechanism for the protection of human rights.

³⁹ See note 25 above.

51. In a number of countries (e.g., Azerbaijan, Ireland and Slovenia), the national ombudsperson office is empowered to investigate complaints not only against State agencies but also local self-government authorities.

VIII. Role of civil society in the planning and implementation of activities for the protection and promotion of human rights at the local level

52. Civil society should actively be involved in human rights planning and implementation at the local level. It can pressurize local authorities in adopting a human rights-based approach and making them more engaged. It also has an important monitoring role and can provide independent information and assessment of local government performance. Civil society organizations may also work directly with local government to strengthen its human rights expertise and awareness. Outside large urban municipalities, however, civil society is often weak and has little experience of monitoring or cooperating with local government.⁴⁰

53. Local public officials should keep up ongoing dialogue with citizens and with civil society. There have to be well-developed channels for such communication and collaboration.

54. Measures should be taken, both nationally and internationally, to strengthen civil society capacity to monitor and engage with local government. International city networks such as United Cities and Local Governments can play a key role in developing toolkits, foster research, provide opportunities for peer-to-peer learning and create communities for action.

55. Analysis of the responses received to the questionnaire shows that civil society plays an important role in boosting local action in the field of human rights in the respective countries. In Hungary, for example, non-governmental organizations can participate in the planning and the implementation phase of regulations and programmes of the municipalities, in accordance with the law. In Burundi, civil society participates actively in the training on human rights for the creation of programmes of information and awareness-raising. In India, civil society representatives have been contributing to strengthening the roles of local governments in effectively addressing rights of marginalized citizens at local level. In Switzerland, organizations are free to bring forth different projects, for example against racism. In Luxembourg, the National Council for Foreigners is an example of the participation of civil society in the promotion and protection of human rights. The Council is composed of civil society representatives and is a consultative body that studies the situations of foreigners and their integration. It gives recommendations on government projects and recommends policies. Nevertheless, it should also be noted that in some countries civil society does not have any role in protecting human rights at the local level.

IX. Best practices

56. Some of the responses received to the questionnaire contain information on best practices with regard to the role of local government in the promotion and protection of human rights. The present section of the report attempts to analyse said information. It should be underlined that many other initiatives have been launched in different countries

⁴⁰ International Council on Human Rights Policy, “Local Government and Human Rights”, p. 76.

aimed at ensuring local implementation of human rights. The best practices illustrated below can be divided into two categories: (a) practices relating to human rights in general, i.e., mainstreaming human rights into local authorities' activities; and (b) those relating to specific human rights or human rights of specific groups.

57. For instance, in Australia, all government services, including local government, are required to operate according to a code of conduct that includes "recognition of human rights". The Australian Local Government Association and the National Human Rights Commission work in cooperation to operationalize human rights locally. Further, the Victorian Equal Opportunity and Human Rights Commission facilitates local government forums, and has developed a toolkit for local government. The latter commission reviews local government programmes and practices on request to ensure they are compatible with the Victorian Charter of Human Rights and Responsibilities and provide training to local councils. In the United States of America, human rights mainstreaming in local administration is taking place through initiatives such as "Bringing Human Rights Home: how state and local governments can use human rights to advance local policy". In an inclusive approach to development that gives equal chances to citizens, Burundi maintains a policy of integrating the new national policy on human rights into the plans of local administration. In Hungary, a priority goal is to monitor implementation of the recommendations made to Hungary under the universal periodic review, which can and will be done via local government. In Colombia, through its programme "Medellin Protects Human Rights", the City Council seeks to guarantee for the city integral protection, acknowledgement, restoration and reparation of human rights. The organs empowered for the implementation of those goals are the Sub-Secretariat of Human Rights, which is composed of three units, including a Human Rights Unit.

58. A number of initiatives are building local governments' capacity on human rights. Burundi has targeted the police for human rights training. Mexico conducts sessions for civil servants on the new constitutional principles, including human rights. Georgia focuses capacity-building on citizens directly, rather than local governments. In Switzerland, best practices include the activities of the Swiss Centre of Expertise in Human Rights aimed at raising awareness on human rights issues, such as racism; three examples of best practices on racism include actions to inform, train and raise the public's awareness in different regions.

59. In Luxembourg, many best practices apply to the integration of foreigners into society and promoting multilingualism and multiculturalism. For example, an office for welcoming and integrating foreign nationals in Luxembourg has been created to facilitate the integration process and is supported by the national, local authorities and civil society. In Hungary, local governments are required to analyse the conditions of disadvantaged groups in their area and promote equal opportunities for them. The Alliance for Democracy and Tolerance — against Extremism and Violence focuses on transferring successful projects and possible solutions from municipality to municipality across regions of Germany. In Slovenia, the Local Government Act defines the rights of national minorities and the Roma population to have formal representation in municipal councils, and other municipalities might establish municipal bodies to deal with human rights issues. A programme there for solving settlement issues of Roma population is managed by the State and financially supported by the State budget. Furthermore, local governments in Slovenia must ensure and work towards gender mainstreaming. In April 1998, in the United States, San Francisco became the first municipality in the world to adopt a local ordinance reflecting the principles of the Convention on the Elimination of All Forms of Discrimination against Women. The Commission on the Status of Women was designated as the implementing and monitoring agency for the Convention in San Francisco.

X. Additional elements to be included in the final report

60. The present paper contains a preliminary analysis of the issues relating to the role of local government in the promotion and protection of human rights. The Committee has therefore recommended to the Human Rights Council to request it to submit a final report to the Council at its thirtieth session (see Advisory Committee action 13/4). It is envisaged that this final report would further elaborate on some of the issues, including the main challenges faced by local government in the protection and promotion of human rights, the operationalization of the concept of a “human rights city”, as well as best practices on ensuring local implementation of human rights and relevant international and regional initiatives.
