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The present contribution is an updated and adapted chapter synthesis extracted from a thesis supervised by Prof. Antonio Papisca at the Interdepartmental Centre on Human Rights and the Rights of Peoples in Padua, Italy and awarded by the European Master on Human Rights and Democratisation 2008/2009.

¹ See Ministry of Integration, Gender Equality and Global Reporting, Sweden, Conclusions of the International Conference on Systematic Work for Human Rights Implementation, *Rights Work! Make Them Real!*, Stockholm, 2009 and contributions in R.F. Jorgensen, K. Slavensky, *Implementing Human Rights: Essays in Honour of Morten Kjaerum*, Copenhagen, Danish Institute for Human Rights (DIHR), 2007.

² «Local government» is hereafter used as a common denomination for public authorities with a local mandate and degree of jurisdiction over an urban area, while bearing in mind heterogeneity in, *inter alia*, mode of political institution, nature and scope of mandate, institutional structures, resources and revenues.

³ In A. Appadurai, *The Right to Participate in the Work of the Imagination*, interviewed by A. Mulder, in J. Brouwer, A. Mulder, *Transurbanism*, Rotterdam, V2-Publishing-NAI Publishers, 2002, p. 37.

⁴ M. Kjaerum, *Opening Address at the International Conference on Systematic Work for Human Rights Implementation*, Stockholm, 2009.

⁵ See also United Nations Population Fund, *State of World Population 2007: Unleashing the*

Local Governments & Human Rights Implementation: Taking Stock and a Closer Strategic Look

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1. «Much Ground to Be Made Up»: A Timely Moment for New Strategic Insights

In conceiving systematic human rights implementation beyond a state-based approach and defining a multi-stakeholder agenda, much academic as well as political attention has been devoted to the potential role and responsibilities of, *inter alia*, civil society organisations, national human rights institutions, transnational corporations and other business enterprises or the international human rights architecture¹. Exploring the potential of local governments² perhaps emerges as an additional strategic imperative, also in light of challenges and opportunities associated with the «non-negotiable probability» of an urban millennium³. As recently put forward by the Director of the European Fundamental Rights Agency Morten Kjaerum:

Many of the solutions to tackle the human rights challenges can be found at the local and regional level. Whether we are addressing the rights of the mentally (ill), migrant children, countering discrimination in service provision, addressing rights related to housing and accommodation all these fall squarely within the ambit of the powers of local authority. We have been too slow in recognising this and there is much ground to be made up.⁴

1.1. Contemporary Urban Condition(s): The Unprecedented Local Relevance of Human Rights

Since 2008, more than half of the world's population lives in urban areas⁵, where the demands of the most vulnerable resonate with particular urgency. Even though invariably

Potential of Urban Growth, New York, UNFPA, 2007, pp. 1-13.

⁶ R. Rolnik (ed.), *Cities - Magnets of Hope. A Look at Global Migration Problems*, in «Habitat Debate», vol. 12, no. 3, September 2006.

⁷ United Cities and Local Governments (UCLG), *Lets Build the Inclusive City of the 21st Century*, Policy Paper adopted in Istanbul by the World Council of United Cities and Local Governments, 30 November 2008, p. 2.

⁸ For illustrations related to HIV/AIDS, health or housing and local challenges associated with the Millennium Development Goals, see case studies in S. Marks, K. Modrowski, W. Lichem, *Human Rights Cities. Civic Engagement for Societal Development*, PDHRE-UN-HABITAT, 2008, pp. 21-38.

⁹ The city human rights diagnostic finds more than 1 million of city dwellers are in situation of systematic marginalisation, with limited access to essential rights such as potable water. It puts forward data highlighting «the issues of inequality, poverty, marginalisation, segregation and discrimination which coexist with space of liberty, development and empowerment». Comité Coordinador para la elaboración del Diagnóstico y Programa de Derechos Humanos del Distrito Federal, *Diagnóstico de derechos humanos del Distrito Federal*, Ciudad de Mexico, 2008, pp. 6-7.

¹⁰ The New York City Commission on Human Rights is a long-established city agency with a mandate to protect residents against discrimination and foster equality of treatment through education and legal enforcement. The mandate evolves with the New York City Municipal Human Rights Law, codified by the Council of New York City, one of the most progressive legislation in the United States in this area.

¹¹ See for instance the cases of local governments in Bolivia, India, Pakistan, the Philippines, Senegal, Tanzania and Ukraine in International Council on Human Rights Policy, *Local Governments*

(presented as) «magnets of hope»⁶, cities in the global North and South continue to witness dynamics of polarisation and social exclusion often directly reflected in their spatial development and heightened by processes of economic globalisation and international labour migration⁷. In turn, they offer strategic sites for frontline human rights struggles: demands concern virtually all human rights, from pressing issues of security and protection to access to fundamental socio-economic rights such as the rights to health and housing⁸. With cities' position as social and political entities of reference, local governments are on the frontline to come to terms with the paradoxes and tensions of the contemporary urban condition: as an uncertain collective trajectory resulting from rapid and often unregulated urban development; but also an individual condition, where openings for emancipation and empowerment and exposure to human rights violations may coexist and overlap, as documented by a recent mapping of protection gaps in Mexico City⁹.

1.2. New Windows of Opportunity

Along with this challenging context, favourable legal, institutional and political developments further back the strategic relevance of engaging (with) local governments. While in some states, institutional arrangements have long granted local governments large initiative powers – including that of developing and enforcing their own legal protection standards as with the New York City Commission on Human Rights¹⁰ – in others, recent devolution processes widen their competences, notably with respect to service delivery. However with variable capacities depending, *inter alia*, on the statutory legal framework, mode of political institution, mandates, resource endowment and revenues¹¹, local authorities are thus entrusted with an unprecedented legitimacy to act. South African cities illustrate this well¹².

In parallel, progress in cities' international profile has been steady in recent years in fields such as decentralised cooperation and development, peace-building, diplomacy. Such positioning and pro-active involvement in traditionally state-reserved areas of national as well as international affairs is being justified and pursued¹³. It is also progressively gaining

and Human Rights. *Doing Good Service*, Geneva, ICHRP, 2005, pp. 41-51.

¹² South African Local Governments Association (SALGA) (www.salga.org.za) and City of Johannesburg, *Human Development Strategy: Joburg's Commitment to the Poor*, Johannesburg, Office of the City Manager - Corporate Planning Unit, 2005, pp. 62-71.

¹³ United Cities and Local Governments (UCLG), *Strategic Priorities 2007-2010*, 2007 (online).

¹⁴ United Nations, *Plan of Implementation of the World Summit on Sustainable Development*, Johannesburg, UN, 2002, paras 147-149, 167; UN General Assembly, *World Summit Outcome*, A/60/L.1, UN, 2005, para. 174.

¹⁵ Global Commission on International Migration (GCIM), *Migration in an Interconnected World: New Directions for Action*, Geneva, GCIM, 2005, p. 2.

¹⁶ UN General Assembly, *Special Session on Children: A World Fit for Children*, S-27/2, 2002, para. 32.3.

¹⁷ See for instance Commonwealth Local Government Forum, *Freeport Declaration on Improving Local Government: The Commonwealth Vision. Outcome of the Commonwealth Local Government Conference*, 2009.

¹⁸ UNICEF, Innocenti Research Centre, International Secretariat for Child Friendly Cities, *Building Child Friendly Cities: A Framework for Action*, Florence, Innocenti Publications, 2004, p. 1.

¹⁹ A. Brown, A. Kristiansen, *Right to the City, Urban Policies and the Right to the City: Rights, Responsibilities and Citizenship*, Paris, MOST2-UNESCO, 2008, pp. 10-12.

²⁰ The initiative is also driven by The Hague Process on Refugees and Migration (THP), a platform which strives to include local governments in innovative responses to protection and inclusion issues.

²¹ International Council on Human Rights Policy, *Local Government and Human Rights*, cit., p. 20;

international acknowledgement as noticed in the spheres of development¹⁴, international migration¹⁵ or in relation to fully explicit human rights agendas such as children's rights¹⁶. This movement seemingly provides further relevance and impetus for local governments to establish a foothold in international agendas and movements and take ownership of global discourses such as that of human rights.

By and large, local government's potential to enhance human rights' implementation unfolds in this context of widespread urbanisation and with – where found – enabling mandates and policy options. One finds here the rationale local governments put forward to motivate and provide legitimacy to recent engagement – partly through regional or international coalitions¹⁷. It is also the analysis leading the United Nations Children's Fund (UNICEF)¹⁸, Educational, Scientific and Cultural Organisation (UNESCO) Human Settlements Programme (UN-HABITAT)¹⁹ – to build upon and foster a more systematic rights-based engagement of local governments in their respective sphere of intervention. In December 2009, the Office of the High Commissioner for Refugees (UNHCR) included for the first time mayors and city representatives in its annual dialogues on protection and its efforts to make it a shared responsibility and a reality on the (urban) ground²⁰.

2. «Sphere of Influence»: Spelling out Legal Underpinnings of Local Governments' Engagement with Human Rights

New windows of opportunities, new legitimacy but also – perhaps to begin with – clarified responsibilities? A widely asserted position stands that international human rights obligations contracted by states automatically translate to local authorities as constituent elements of government – with further clarity in situations where specific mandates have been devolved to them²¹. In recent years, and with reference to various human rights frameworks, these obligations found concurring clarifications, moving the debate beyond implicit assumptions. Worth exploring, mobilised instruments, standards and mechanisms here equally *credit*, *demand* or *sanction* local governments' practices – with an international

UNICEF, Innocenti Research Centre, International Secretariat for Child Friendly Cities, *Building Child Friendly Cities*, cit., p. 5.

²² UN General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, A/RES/53/144, New York, United Nations, 1999.

²³ See A. Papisca, *Human Rights and Democracy in the Global Space for Good Multi-Level Governance*, Presentation at the Colloquium «Ethique de la coopération internationale et l'effectivité des droits humains», University of Bergamo, Italy, 23-25 October 2008.

²⁴ K. Whitmore, *Le lien entre la démocratie locale et régionale et les droits de l'homme. Contribution to the Congress on the Forum on the Future of Democracy*, Sigtuna, Sweden, 13-15 juin 2007, Strasbourg, Council of Europe, 2007, para. 6.

²⁵ I.e. Mayors Defenders of Children, initiative of the Italian Committee for UNICEF, in C. Baraldi, *Cities with Children: Child Friendly Cities in Italy*, Florence, Innocent Insight-UNICEF, 2005, p. 19. See also the International Cities of Refuge Network.

²⁶ *Education for All: A Human Rights-Based Approach to Education*, New York-Paris, UNICEF-UNESCO, 2007.

²⁷ Food and Agriculture Organisation (FAO), *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, adopted by the FAO Council, Rome, FAO, 2005.

²⁸ UN Sub-Commission on the Promotion and Protection of Human Rights, *Draft Guiding Principles «Extreme Poverty and Human Rights: The Rights of the Poor»*, A/HRC/Sub.1/58/36, New York, United Nations, 2006, para. 5.

²⁹ *Pottinger v. City of Miami* (1985-1997), US District Court for the Southern District of Florida.

³⁰ *Olga Tellis v. Bombay Municipal Corporation* (1985), Supreme Court

framework that can equally be steered to outline responsibility and autonomous legitimacy to engage and be recognised as responsible partners in the field.

2.1. From Anchors in International Human Rights Instruments...

Relevant foundations include here the Universal Declaration reference to a «social and international order» conducive for «the realisation of rights and freedoms» (Article 28) or the 1998 UN «Human Rights Defenders» Declaration calling upon «all organs of society»²².

Along with others, these offer an opportunity to anchor and credit the role and «responsibility to protect»²³ of local governments in advancing internationally defined standards and agendas²⁴. The notion of «human rights defenders» also finds concrete echo in the engagement of local leadership and resonates in specific projects engaging today city governments across the globe²⁵. Moving closer to pro-active implementation of legal standards, the role of local governments remains perhaps overlooked in rights-based guidelines – such as the ones issued on the right to education²⁶ or the right to food²⁷. But further attention may be surfacing with explicit references to local governments in emerging instruments such as the Draft Guiding Principles on Extreme Poverty and Human Rights²⁸.

2.2. ...to Legal Clarifications Through Case Law and Legislation

In recent years, constitutional and local courts worldwide – including in the United States²⁹, India³⁰, South Africa³¹ and Canada – handed down landmark decisions on human rights issues – i.e. the right to life and livelihood or housing – pointing to local governments (agencies) falling short of their negative as well as positive obligations *vis-à-vis* vulnerable groups of residents. In a Canadian case decided in 2008³², the British Columbia Supreme Court declared of no force and effect a bylaw of the city of Victoria prohibiting the erection by homeless residents of temporary shelters in public parks. It considered its dispositions to be in violation of the rights to

life, liberty and security of person enshrined in the Canadian Charter of Rights and Freedoms and, in doing so, mobilised international conventions ratified by Canada as interpretative instruments. The decision left to the city discretion and responsibility in «reconciling the rights of the homeless with the objectives of preservation of parks». That same year, in an eviction-case concerning the city of Johannesburg, the South African Constitutional Court put forward an obligation of «meaningful engagement» with community residents if the local government was to respect its constitutional obligations attached to the right to housing³³. Crystallising contentious issues of social justice and definition of urban public space, such litigation efforts driven by civil society organisations and leading case law challenge or compel local governments to engage³⁴. Such activism in translating obligations can also sometime rely on conducive legislation. The United Kingdom Human Rights Act of 1998 is here a case in point, with the clarifications of responsibilities falling upon local governments as «public authorities» *vis-à-vis* residents and their rights under the European Convention of Human Rights in various policy areas including education, healthcare, housing but also social assistance or licensing³⁵.

With increasing precedents, the road seems open for future critical developments clarifying the human rights obligations of local governments and stressing the urgency of enabling, monitoring and securing their engagement in implementation.

2.3. Towards Increased Scrutiny?

A quick survey of United Nations institutions and mechanisms monitoring human rights and state's compliance³⁶ points to the obligations and potential role for local governments being increasingly and jointly considered – albeit quite logically in an indirect manner. Recommendations addressed to central governments by UN treaty bodies as well as thematic Rapporteurs include, *inter alia*: to ensure removal of local arrangements, decisions and practices breaching obligations under the Convention considered; to monitor local compliance and pursue harmonisation of local standards; to promote implementation measures and convention-related objectives at the local level through enhanced coordination.

of India, ICHRP, 2005, p. 68.

³¹ *Government of Republic of South Africa and Others v. Grootboom and Others*, 2000 (11) BCLR 1169 (CC) (2000); *Occupiers of 51 Olivia Road v. City of Johannesburg* (2008), Constitutional Court of the Republic of South Africa.

³² *City of Victoria v. Adams* (2008), Supreme Court of British Columbia, Canada; The Poverty and Human Rights Center, *Victoria (City) v. Adams: Advancing the Right to Shelter*, Law Sheet, 2009.

³³ *Occupiers of 51 Olivia Road v. City of Johannesburg* (2008), cit.; B. Ray, *Occupiers of 51 Olivia Road v. City of Johannesburg: Enforcing the Right to Adequate Housing through «Engagement»*, in «Human Rights Law Review», vol. 8, no. 4, 2008, pp. 703-713.

³⁴ For a concrete illustration with respect to the right to education in the United States, see Global Rights, Partners for Action, *The Justiciability of Economic, Social, and Cultural Rights in the U.S. Domestic Implementation of the Right to Equal Education. A Plan for Action*, Washington, Global Rights, 2004.

³⁵ R. Drabble, J. Maurici, T. Buley, *Local Authorities and Human Rights*, Oxford-New York, Oxford University Press, 2004.

³⁶ Online survey over the period 2002 to present, conducted using the online Universal Human Rights Index.

But these simultaneously demand governments to ensure redistribution of resources allowing local governments to fulfil specific mandates of relevance to their obligations as state party; to support training of local officials, among other stakeholders, also to ensure that recommendations issued by international bodies are known and can be followed through locally; to foster conducive institutional developments at the local level. From China to Egypt, Benin, Italy or the Philippines, it is in fact the crosscutting and quasi-universal relevance of considering local governments' engagement that emerges.

ILLUSTRATIVE EXCERPTS OF RECOMMENDATIONS BY UNITED NATIONS TREATY-BODIES & SPECIAL PROCEDURES

TREATY BODIES

«[...] recalling general recommendation 27, ensure that municipalities remove discriminatory ordinances and comply with the State party's obligations under the Convention» (Paragraph(s) 16 CERD/C/ITA/CO/15 (CERD, 2008) Italy).

«[...] take all appropriate measures to ensure full implementation of present recommendations, *inter alia*, by transmitting them to members of Cabinet of Ministers, Parliament, and to local governments and parliaments, when applicable, for appropriate consideration and further action» (Paragraph(s) 39 CRC/C/OPSC/MAR/CO/1 (CRC, 2006) Morocco).

«[...] pay special attention to promoting implementation and evaluation of policies at country's three levels of government, particularly in municipalities, and to establishment of specific timetable for monitoring and evaluating progress achieved in compliance with obligations under CEDAW» (Paragraph(s) 428 ter A/57/38(SUPP) (CEDAW, 2002) Mexico).

«[...] strengthen redistributive mechanisms between regions and levels of government, so as to ensure that local authorities receive additional funds necessary for adequate provision of welfare and social services to populations» (Paragraph(s) 56 E/C.12/1/ADD.107 (CESCR, 2005) China).

«[...] step up efforts to prevent and halt killings of so-called “witch children” by including provisions in criminal law to suppress this practice and organizing campaigns to heighten awareness of its criminal nature among local authorities, doctors, midwives and the population at large» (Paragraph(s) 40 E/C.12/BEN/CO/2 (CESCR, 2008) Benin).

«[...] initiate trainings for all officials working in area of migration, in particular police and border personnel as well as officials at local level dealing with migrant workers» (Paragraph(s) 19 CMW/C/EGY/CO/1 (CMW, 2007) Egypt).

«[...] while respecting the autonomy of the local authorities, the Committee recommends that the State party utilize all appropriate measures to ensure the institutionalization of equality advisers in all local municipalities» (Paragraph(s) 21 CEDAW/C/PRT/CO/7 (CEDAW, 2008) Portugal).

«[...] promote as much as possible establishment of local councils for protection of children, particularly in cities, municipalities and barangays (smallest unit of local government), provided with adequate resources to be important instruments in implementation of Plan, in particular, and CRC, in general» (Paragraph(s) 11 CRC/C/15/Add.259 (CRC, 2005) Philippines).

SPECIAL PROCEDURES

«[...] in pursuit of a continuing increase in comprehensive coverage of civic services, which are essential to the realization of the right to adequate housing, including water, electricity and sanitation, South Africa may wish to consider allocation of a greater share of the central budget to local municipalities» (Paragraph(s) 104 A/HRC/7/16/Add.3 (SR Housing, 2008) South Africa).

«[...] all levels of governments should consider the application of the basic principles and guidelines on development-based evictions and displacement, including the recommendation to conduct eviction impact assessments» (Paragraph(s) 95 A/HRC/7/16/Add.2 (SR Housing, 2008) Spain).

Selected references hint to both favourable and impairing potentials of local governments in realising the rights of vulnerable groups and city residents at large. They recall the extent to which legitimacy and responsibility are in fact

intertwined, as the concept of «sphere of influence» usefully captures³⁷. Bridging both dimensions, a case has been set for the development of a general frame of reference for local governments deriving core principles and obligations from the international human rights framework³⁸.

It remains that in spite of growing references and scrutiny, many practices of local governments may remain «off the radar» not only of the international human rights monitoring mechanisms and courts but equally of national governments, NGOs and National Human Rights Institutions (NHRIs). These are now being purposefully encouraged to also focus their monitoring and advocacy onto the local level³⁹. The Human Rights Committee, thus recalled in a 2004 general comment that all levels of government are likely to engage state responsibility⁴⁰.

³⁷ K. Withmore, *Le lien entre la démocratie locale et régionale et les droits de l'homme*, cit., para. 3.

³⁸ See E. Decaux, *Vers un pacte local pour le progrès des droits de l'Homme*, in Secretariat International Permanent Nantes, *Droits de l'Homme et Gouvernements Locaux, 3ème Forum Mondial des Droits de l'Hommes - Du local à l'universel, un combat pour les droits de l'Homme*, Nantes, SPIDH-Toogezzer, 2008, pp. 9-13.

³⁹ International Council on Human Rights Policy, *Local Governments and Human Rights*, cit., pp. 89-90.

⁴⁰ Human Rights Committee, *General Comment n°31 «The Nature of the General Legal Obligation Imposed on States Parties»*, 2004, para. 4.

⁴¹ International Council on Human Rights Policy, *Local Governments and Human Rights*, cit.

⁴² See also contributions in L. Bekemans, M. Karasinska-Fendler, M. Mascia, A. Papisca, C.A. Stephanou, P.G. Xuereb (eds), *Intercultural Dialogue and Citizenship. Translating Values into Actions: A Common Project for Europeans and Their Partners*, Venice, Marsilio, 2007.

⁴³ Cross-fertilisation for instance exists with the «right to the city» concept and movement. Developed since the 1960s, the latter has served as a drive for urban transformation bringing further recognition of the social function of cities and the critical rights components and implications of local urban planning, notably in Brazil. See A. Brown, A. Kristiansen, *Right to the City*, cit., pp. 11-14.

3. From Discourse to Action: Insights into an Emerging Praxis and Its Potential

Evidence – or rather lack thereof to the contrary– suggests that most local governments do not make systematic use of human rights frameworks⁴¹. Yet significant developments in discourse and practice could offer encouraging prospects. Local experiences with human rights follow from national implementation efforts or are driven by civil society organisations. But this emerging and *explicit* praxis also largely materialises with genuine initiatives finding articulation in broad international networks and compacts. This section highlights and illustrates some of the overlapping directions these efforts follow.

3.1. Appropriation in Discourse

A number of landmark declarations and ongoing projects flag an appropriation by local governments of the human rights language and discourse. This appropriation is often framed within larger discussions on issues of (urban) inclusion and citizenship⁴² as well as the recognition of the social function of cities⁴³. References to human rights – however discrete – made their way in statutes of global and regional local government

associations developed in recent years. The 2004 Constitution of United Cities and Local Governments (UCLG) recalls the Universal Declaration of Human Rights and «the vital role of local government as a force for promoting Human Rights – civil and political, social and economic – as recognised, codified and endorsed by the United Nations»⁴⁴. With varying degree of priority, human rights rank among core values, general objectives or basis for action in the strategic visions of the African, Latin American and European coalitions. A step further, standard-setting instruments have also been developed by local governments: a leading example, the European Charter for the Safeguarding of Human Rights in the City⁴⁵ provides a point of systematic reference for and in municipal decisions with explicit references to the international human rights framework and the European Convention on Human Rights. An on-going global initiative to draft a World Charter as well as the recent establishment of a permanent International Secretariat for Human Rights and Local Governments (SPIDH) point to a relative maturation of this movement of translation as well as to the cross-fertilisation of regional and local initiatives. Locally, municipal rights-based charters are also likely to burgeon in the footsteps of initiatives such as one in Montréal, Canada, which received large international attention⁴⁶. Beyond these broad references, and perhaps most interestingly, appropriation surfaces on specific issues where local governments have sought to jointly position themselves. As with the 2006 European Declaration on Migration and Situation of Undocumented Residents adopted in Seville⁴⁷, these developments have sought to oppose and challenge central governments' policies or point to their adversarial impact locally. Such initiatives mobilise the human rights discourse to articulate and credit demands in terms of policy coherence, recognition of competence and/or transfer of resources.

3.2. Focus on Specific Human Rights Agendas and Vulnerable Groups

Concomitant with an ethical and instrumental discourse, a movement seemingly sees local governments engaging with and mobilising specific dimensions of the human rights framework (i.e. non-discrimination); specific rights-based agenda (i.e. right

⁴⁴ United Cities and Local Governments (UCLG), *UCLG Constitution*, 2004, www.cities-localgovernments.org.

⁴⁵ See *International Public Debates. Urban Policies and the Right to the City*, Paris, UNESCO-UN-HABITAT, 2005, pp. 174-186.

⁴⁶ See also for instance C. Young, *Summary: Bringing Human Rights to the City. Municipal Human Rights Charters in Canada*, Toronto, Center for Equality Rights in Accommodation (CERA), 2005. The Charter makes reference to a right to participation, social, economic and cultural rights, as well as environment-related entitlements. It also provides for an independent ombudsman to mediate *vis-à-vis* inhabitants and ensure concrete effect of the provisions.

⁴⁷ Council of European Municipalities and Regions (CEMR), *Declaration of Sevilla on the Role of European Local and Regional Governments in Relation to Migration*, 23 October 2006.

to education); or core international instruments (i.e. the International Convention on the Rights of the Child) to further the protection of urban residents. Among prominent initiatives is the Coalition of Cities against Racism and Discrimination supported by UNESCO and deploying regionally in Europe (2004), North America (2005), Africa (2006), Latin America and the Caribbean (2006), Asia and the Pacific (2007) and the Arab Region (2008). Regional action plans provide for local monitoring, awareness raising, education AND training, victim support measures. They stress the role of local governments as, *inter alia*, employer, contractor and service provider but also «vehicle for law enforcement and driver of community building»⁴⁸. Measures unfold locally in ways that are consistent with some of the relevant instruments (i.e. International Convention on the Elimination of Racial Discrimination) and echo core principles of the international human rights framework. Other international thematic initiatives have engaged local authorities, notably on the agendas of the right to education⁴⁹ or the right to health⁵⁰. Similar linkages between international standards and local commitments materialised with pressure and/or support from international organisations and civil society organisations, fostering attention to the rights of particular groups of residents such as – women⁵¹, disabled persons⁵², children⁵³. Evaluation suggests that these initiatives made specific developments possible, serving as renewed drives to advance the rights of «invisible» or marginalised city residents and also providing further impetus to transformative approaches seeking to deepen inclusiveness in (local) governance.

⁴⁸ See A. Brown, A. Kristiansen, *Right to the City*, cit., pp. 30-32.

⁴⁹ International Association of Educating Cities (IAEC).

⁵⁰ World Health Organisation - Healthy Cities Project.

⁵¹ European Charter for Equality of Women and Men in Local Life, CEMR, 2006.

⁵² See for instance Swedish Co-operative Body of Organisations of Disabled People, *Agenda 22 - Local Authorities: Disability Policy Planning Instructions for Local Authorities*, Stockholm, Modintryck AB, 2001.

⁵³ UNICEF - Child Friendly Cities Project.

3.3. Structural Attempts: Mainstreaming Human Rights in Local Policy-making

Along with thematic initiatives which demand further assessment, pioneering attempts – more comprehensive or structural in nature – are underway and complement the picture of this emerging engagement. They provide a window on the feasibility of locally adopting rights-based approaches and the potential impact. An informative example is the endeavour to implement the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in

the city of San Francisco. A 1998 city ordinance outlined a comprehensive approach to discrimination based on the Convention standards and provided for a citywide plan and specific monitoring efforts. A standing CEDAW Committee under the San Francisco Department on the Status of Women steers an implementation strategy with a preventive gender-based screening of local programmes and budgeting across agencies and departments. It proved pertinent in identifying gender discriminative practices, remedying gender disparities in outreach by support services (i.e. rent stabilisation board). It helped prioritise local interventions in protection areas (i.e. for victims of domestic and sexual violence with targeted funding and coordination with community-based organisations) or enhance access to socio-economic rights such as healthcare⁵⁴. Notwithstanding obstacles, the impact has been far-reaching, creating the impetus for a replication of this translation effort in other cities. Largely driven by civil society organisations, the movement takes on further relevance in the absence of federal ratification of CEDAW⁵⁵.

Another promising attempt took shape in 2007 in Mexico City, involving the local government (Gobierno del Distrito Federal) and coordinated by the Mexico City Human Rights Commission, an independent institution with extensive mandate, powers and capacities⁵⁶. A city-wide human rights diagnostic⁵⁷ was made possible by a wide compact and covenant including *inter alia* the Public Services Department of the Government of Mexico, the Judiciary of Mexico City, members of the legislative branch of the Mexican government, various non-profit and academic institutions, with technical assistance from the Office of the High Commissioner for Human Rights (OHCHR). The comprehensive document, finalised in 2008, tackles key issues within the city's jurisdiction, bringing attention to city populations facing specific vulnerabilities and protection gaps in the legal framework. As the covenant agreement suggests⁵⁸, it should provide a basis for redefinitions and further development of public policies and programmes.

In the «human rights city» of Graz, Austria⁵⁹, a standing human rights commission emerged out of an initiative in 2000 engaging the local government and major stakeholders in a mapping of local human rights issues and definition of an

⁵⁴ E. Murase, *CEDAW Implementation Locally: Lessons from San Francisco*, Presentation delivered at IWPR's Eighth International Women's Policy Research Conference, June 2005.

⁵⁵ D.J. Liebowitz, *Respect, Protect, Fulfil: Raising the Bar on Women's Rights in San Francisco*, San Francisco, The Women's Institute for Leadership Development (WILD), 2008.

⁵⁶ E.A.L. Longoria, *Presentation at the Session on Human Rights Commissions and Criminal Justice by the President of the Human Rights Commission of Mexico City*, Kennedy School of Government-Harvard University, 2006.

⁵⁷ Comité Coordinador para la elaboración del Diagnóstico y Programa de Derechos Humanos del Distrito Federal, *Diagnostico de derechos humanos del Distrito Federal*, cit.

⁵⁸ Carta Compromiso, Annex, in Comité Coordinador para la elaboración del Diagnóstico y Programa de Derechos Humanos del Distrito Federal, *Diagnostico de derechos humanos del Distrito Federal*, cit., pp. 899-901.

⁵⁹ S. Marks, K. Modrowski, W. Lichem, *Human Rights Cities*, cit., pp. 93-102.

action plan (2002) with priorities set on the rights of vulnerable groups of residents. Supported by the European Training and Research Centre for Human Rights and Democracy (ETC), developments followed including a systematic review of city regulations in the field of procurement, awareness-raising and international cooperation activities in the field of human rights.

In all these initiatives, the process of integration of human rights-based approach has been instrumental. It fostered awareness and increased sensitivity to issues faced by vulnerable residents and set the base for action-oriented covenants. Other civil-society-driven initiatives have engaged similar covenants in cities in Argentina, Brazil, Ghana, Kenya, Mali, Canada or the United States, even though the involvement and support of local governments' proved variable in degree and sustainability⁶⁰.

4. What Impact? Conditions and Apparent Limitations

The diversity of experiences and framing contexts, as well as the scarcity of literature in the field no doubt limit attempts to qualify local governments' performance. Early explicit developments surveyed suggest a potential for local governments to contribute to an implementation agenda through *advocacy*, *standard-setting* or *mainstreaming* of human rights in public policy-making. But available evaluative research also brings to the fore conditions and limitations not to be overlooked.

4.1. Fragile Commitments: Multiplicity of Drivers, Weight of Context

As noted in a global study, the overall performance of local governments is subjected to a large number of external factors, including «political will, history, economic resourcing and endowment, levels of inequity and poverty, constraints imposed by donors and central governments»⁶¹. Further on, some of the initiatives aforementioned shed light on the pivotal role of agenda-based coalitions in triggering commitments, whether political, legal or structural. Pressure

⁶⁰ D.J. Liebowitz, *Respect, Protect, Fulfil*, cit., pp. 5-6; S. Marks, K. Modrowski, W. Lichem, *Human Rights Cities*, cit., pp. 51-102.

⁶¹ International Council on Human Rights Policy, *Local Governments and Human Rights*, cit., p. 15.

from civil society organisations often steers local governments' responses and where capacitated, autonomous institutions also challenge them to engage, sparking or facilitating some of the key developments⁶². In other instances, incentives and momentum are derived from the national and international initiatives or projects unlocking opportune access to resources. In many, core individual commitments within local authorities also drive developments, posing internal mobilisation of staff and leadership as a critical stumbling block to secure impact. Altogether these elements provide for a useful reminder that assessing local governments' potential must acknowledge the wealth of external variables and the fact that none of their actions do take place in a vacuum but are highly contextualised. This calls for cautiousness in anticipating impact and stresses also the limits of somewhat artificially focusing on local governments as single-will or coherent entities.

4.2. Possible Limitations and Conditions

Identified limitations are in fact numerous. They include risks of lack of ownership and selectivity in the translation of existing human rights framework⁶³, issue of sustainability in engagement⁶⁴ – which suggests that the correlation between rights-explicit references and impact for city residents should be questioned rather than assumed. Across the board, a paradox also emerges: essential principles and agendas of the human rights based framework where local governments could be assumed to deliver with value-added – non-discrimination, participation, acceptability and adaptability in service delivery – are precisely where performance is sometimes inconclusive⁶⁵. This further confirms a need to move away from intuitive assumptions that local governments are intrinsically prone to make residents' rights and entitlements more tangible⁶⁶. With most local commitments remaining declarative and judicial developments aforementioned rather exceptional, legal accountability could also prove a weak performance point⁶⁷. Indisputably, and independent from an issue of knowledge and capacity to develop and work with rights-based approaches, the emphasis of the human rights framework on accountability – outlining clear standards, entitlements, responsibility and duty-

⁶² I.e. Comisión de Derechos Humanos del Distrito Federal, México - Defensoría del Pueblo de la Ciudad de Buenos Aires, Argentina, *Declaración de las Defensorías Locales Sobre Derechos Humanos y Metropolis*, Mexico City, 24 April 2009.

⁶³ See E. Decaux, *Vers un pacte local*, cit., p. 12.

⁶⁴ C. Baraldi, *Cities with Children*, cit., pp. 33-45.

⁶⁵ International Council on Human Rights Policy, *Local Governments and Human Rights*, cit.; C. Baraldi, *Cities with Children*, cit.

⁶⁶ As recalled by P. Sané, a number of authors flagged the potential trap in «a local government which would be conceived as intrinsically more democratic». "Opening Speech" in *International Public Debates*, cit., p. 18.

⁶⁷ International Council on Human Rights Policy, *Local Governments and Human Rights*, cit., pp. 66-67. This is a problematic point, from a human rights perspective, also in light of the critical accountability gaps which decentralisation processes have created or failed to close, notably in access to socio-economic rights.

bearers – may well account for some resistance in greater numbers of local governments taking ownership.

Many conditions outlined above can be approached as just as many opportunities and agendas for impact-relevant endeavours, many of which will in fact mobilise broad compacts linking various levels of governments together with research institutions, NGOs and international institutions⁶⁸. In more general terms, and in light of the initiatives surveyed, it may be argued that – parallel to an ethical and instrumental discourse – a reliable indicator of commitment as well as potential for impact thus lies with rights-based *structural* developments. These certainly provide larger opportunities for sustainable engagements and impact although challenges are no less real – visibility and mainstreaming within the overall local government structure⁶⁹; resistance to financial limitations and pressures⁷⁰ and political fluctuations⁷¹; development of capacity-building and training for city employees to capture the value added of rights-based approaches and mobilise frameworks in practice; sustainability of ties and cooperation with community-based and non-governmental organisations included in original steps⁷². What evidence most certainly suggests is that additional monitoring and research is required, both to capture developments that hold potential and flag gaps and shortcomings. In doing so, and from a perspective of impact, internationally visible developments or explicit references to the international framework may well remain secondary.

5. Looking Forward: Avenues for Further Research and Possible Implications

Notwithstanding limitations and conditions sketched above, it remains that some local governments are seemingly engaged in a formative period and pioneering attempts which showcase the potential in spelling out practices beyond the adoption of a human rights discourse. Further advancement can be anticipated – and certainly hoped for – from these concurring movements of legally set and activated responsibility; proactive seizure by local governments; and perhaps also from the international human rights institutions and mechanisms and a

⁶⁸ See for instance the Child Friendly Cities Project in Italy, in C. Baraldi, *Cities with Children*, cit.

⁶⁹ D.J. Liebowitz, *Respect, Protect, Fulfil*, cit., p. 15.

⁷⁰ *Ibidem*, p. 5.

⁷¹ S. Marks, K. Modrowski, W. Lichem, *Human Rights Cities*, cit., pp. 95-98.

⁷² D.J. Liebowitz, *Respect, Protect, Fulfil*, cit., pp. 14-19.

wider range of institutions enlarging their focus when considering implementation records and strategies.

5.1. Legal Empowerment: An Unexplored Terrain?

Intuition, available research or international projects addressing the potential of local governments tend to focus on service delivery and sector specific agendas (i.e. right to health or education). Yet in the wider field of implementation, leading works have insisted on obstacles in making the human rights framework accessible to the most vulnerable. These have stressed the capacity for individuals to interact actively with the legal system as a critical variable to make human rights effective⁷³, advocating the need for further support and resources to be invested in this area⁷⁴. Perhaps with good reasons, local governments have so far hardly been referred to as among the critical stakeholders to take this *legal empowerment* agenda forward⁷⁵. Yet experiences analysed elsewhere suggest that it is a terrain where a valuable contribution could unfold⁷⁶. This sets forth an important avenue where further engagement by researchers as well as practitioners would be welcome.

⁷³ See International Council on Human Rights Policy, *Enhancing Access to Human Rights*, Geneva, ICHRP, 2004. See also S. Golub, *Access to Human Rights: Obstacles and Issues*, Geneva, ICHRP, 2003, pp. 6-7.

⁷⁴ Conference on the Protection and Promotion of Human Rights through Provision of Legal Services, 2007. See also the United Nations *Draft Guiding Principles «Extreme Poverty and Human Rights: The Rights of the Poor»* (Section 2. K. Right to justice), cit.

⁷⁵ See International Council on Human Rights Policy, *Enhancing Access*, cit., 2004. See also Commission on the Legal Empowerment of the Poor, *Making the Law Work for Everyone*, New York, UNDP, 2008, p. 10.

⁷⁶ See the analysis of experiences in New York City, Paris and Johannesburg in A. Meyer, *Making Human Rights(+) Work: Local Governments Stepping In? Exploring a Potential, with a Focus on Experiences in New York City, Johannesburg and Paris*, in EIUC, *European Master's Degree in Human Rights and Democratisation. Awarded Theses of the Academic Year 2008/2009*, Venezia, Marsilio, 2009 (forthcoming).

5.2. Possible Implications for Human Rights Implementation and Governance

«The main challenge is now to enhance the interaction between international, national and local authorities, to promote systematic human rights planning, where local and national needs are matched coherently with agreed international norms»
(Thomas Hammarberg, Commissioner for Human Rights, Council of Europe)

Returning to the larger agenda for human rights implementation, a number of possible implications can be raised. Where appropriate, building on local governments can prove an important strategic orientation to «make the law work» and accelerate contextualised and concerted responses to human rights issues on the ground. Whether they act on their motion or in cooperation with other actors, institutional or non-governmental, engagement can seemingly offer useful

prolongations of the state efforts and duties to respect, protect and promote rights enshrined in constitutional or internationally endorsed obligations.

But it must be reminded that political orientation and resolution as well as (human) resources and capacity of local governments are no constant variables – but ones likely to vary intensively across space (national territory) and time (i.e. with changing politics, coalitions and leadership). Significant differential in levels of protection and opportunities may follow from local governments' initiatives, advancing the condition of some but simultaneously jeopardising equity for all. Ultimately, this offers a reminder that whether impact is found positive or negative, the engagement of local governments adds rather than takes away from the state responsibility, notably from the point of view of obligations under international human rights law. It implies not only a strategic rationale and duty to support pro-active engagement by local governments but also a duty to monitor their actions and ensure equality of treatment and protection across the territory – that is, to strive towards *effectiveness* but also *homogeneity* in responses at the national level⁷⁷. If the engagement of local governments with human rights is to complement and not substitute that of the state, enhancing the dialogue across levels of governments may well be a timely agenda point in many world regions to foster more coherent and systematic planning indeed matching international standards and obligations. On this agenda of policy coherence and coordination, a research gap – if not one of practice – is also apparent.

But beyond a perhaps restrictive state-centred perspective to human rights implementation and governance, signs are that local governments could be and already are in a position to play a relevant role in a wider «circle of empowerment»⁷⁸ encapsulating the international normative and institutional framework and a plural set of national and local actors *engaged in* and *responsible for* effective implementation. It is perhaps anticipated to talk about a new «central actor» in the field of human rights or a new «ally for civil society»⁷⁹ – also because the noted primacy of national frameworks and contexts poses a limit to such a general postulate. But as this contribution and the emerging literature can only hint at and where relevant,

⁷⁷ Arguably, these implications are relevant to the wide spectrum of human rights and protection issues as the snapshots of recent recommendations by international monitoring mechanisms suggested.

⁷⁸ A. Javate de Dios, *Personal Reflection: The Circle of Empowerment*, in H.B. Schöpp-Schilling, C. Flinterman (eds), *The Circle of Empowerment: Twenty-Five Years of the UN Committee on the Elimination of Discrimination Against Women*, New York, The Feminist Press, 2008, pp. 309-312.

⁷⁹ Secretariat International Permanent Nantes, *Droits de l'Homme et Gouvernements Locaux*, cit., p. 59.

cautiously assuming local governments' potential and strategically pursuing its development may well prove increasingly relevant for all those involved in rights-based approaches to social change.

