

The Peace Human Rights Link in the Statutes of Local Governments: The Pioneering Example of Italy

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1. The «Peace Human Rights» Norm

In line with the United Nations Charter, Article 11 of the Constitution of the Italian Republic (1948) reads:

Italy rejects war as an instrument of aggression against the freedoms of others peoples and as a means for the settlement of international disputes. Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations. Italy shall promote and encourage international organizations furthering such ends.

In 1988, in Regional Law 30 March 1988 no. 18 on «Regional measures for the promotion of a culture of peace», the Region of Veneto established that the rejection of war shall be accompanied by the right to peace as a fundamental right of the person and of all peoples.

Thus it was that a rule linking peace and human rights was introduced to the sub-national legal order of the Republic of Italy, by virtue of Article 1 of the aforementioned regional law:

1. The Region of Veneto, consistent with the principles of the Constitution enshrining the rejection of war as a means of resolving international controversies, the promotion of human rights, democratic freedoms and international cooperation, recognises peace as a fundamental human right and a right of peoples.
2. To this end, it promotes a culture of peace through research, cultural, educational, information-giving and cooperative activities aiming to make Veneto a land of peace.
3. In order to achieve these goals, the Region shall act through direct initiatives as well as fostering the interventions of local authorities, associations, cultural institutions, volunteer and international cooperation groups operating in the Region.

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This law was later amended and expanded by Regional Law 16 December 1999, no. 55 on «Regional interventions for the promotion of human rights, a culture of peace and cooperation for development and solidarity», Article 1 of which reads thus:

1. The Region of Veneto recognises peace and development as fundamental rights of the person and of peoples, consistent with the principles of the Italian Constitution and international law enshrining the promotion of human rights and the rights of peoples, democratic freedoms and international cooperation.

2. In order to achieve the aims of Article 1, the Region promotes human rights, the culture of peace and development cooperation through cultural and information-giving initiatives, research and education, decentralised cooperation and humanitarian aid. Specifically, in countries internationally recognised as developing countries, the Region contributes to the preservation of cultural identity, the satisfaction of basic needs by fostering food self-sufficiency, the protection of the ecological balance and their environmental heritage, improving health and sanitation conditions, raising levels of schooling and improving the situation of women and children, promoting equal opportunities between men and women while respecting ethnic and cultural differences. By so doing, it performs a preventive action against immigration by offering economic, social and cultural support.

The pioneering Law 18/1988 became a paradigm for similar laws subsequently adopted by nearly all Italian Regions and in the Statutes that Town and Provincial Councils drew up from 1990 onwards, following the entry into force of Law 8 June 1990 no. 142 on «The legislation of local self-government» and subsequent Law 25 March 1993 no. 81 on the «Direct election of the Mayor, the President of the Province, the Town/City Council and the Provincial Council».

In March 1991, in Perugia, during the National Assembly of the Coordinating Body of Local Authorities for Peace and Human Rights, the Human Rights Centre of the University of Padua launched its proposal to include the «peace human rights» norm in the new statutes. The unforgettable Father Ernesto Balducci, who was also speaking at the Assembly, became an authoritative supporter and promoter of the proposal. In his turn, the then-Region of Veneto Councillor for «Peace-Human Rights», Luciano Falcier, wrote a formal letter detailing the proposal to all the Municipal Councils and Provinces in Veneto.

In the years that followed, through the «Assembly of the Peoples’

United Nations» which preceded the traditional Perugia-Assisi Peace March, the Peace Roundtable and the Coordination of Local Authorities for Peace and Human Rights gave way to what Professor Papisca has called «the Assisi way to positive peace»¹. Local authorities, schools, religious groups, NGOs and transnational solidarity movements, which continue to grow both in number and in their levels of knowledge and awareness, and are ever more frequently linked together in «networks» identify with international human rights law and struggle for it to be translated into the political agendas from the town level to the United Nations.

Italian civil society made a considerable leap forwards in proving itself a subject able to produce synergisms for the building of a new political culture, marked by a vocation for action, a decidedly transnational dimension and by an equally strong interest in the fate of the international institutions, starting from the United Nations, and by remaining firmly anchored to the ethical-legal paradigm of internationally recognised human rights. The Peace Roundtable was the answer to the need to converge on the strategic objective of building peace through developing democracy from the domestic to the international level and the implementation of an economy of justice under the banner of «all human rights for all».

The proposal met with widespread success, which is described in the research carried out in 2011, with the financial support of the Region of Veneto, by the Human Rights Centre of the University of Padua on a sample including the Statutes of the 104 Provinces, the 20 Regions with standard and special statutes, the 2 autonomous Provinces and the 2,372 Towns with a population of over 5,000.

This research showed that the «peace human rights» norm including expressions such as «human rights», «peace as a fundamental right», «culture of peace», «rejection of war», «solidarity and cooperation between peoples», «disarmament», «intercultural dialogue», «principle of equality and non-discrimination» has been included in the Statutes of 2,086 Towns, 97 Provinces and 13 Regions.

The outcome of this widespread and fertile legiferating, realised in the name of the great values of universal constitutionalism, is that the «peace human rights» norm which was introduced in Veneto has spread all over Italy: a very significant case in the world.

¹ A. Papisca, *10 anni di Tavola della Pace: la via Perugia-Assisi alla pace positiva*, in «Pace diritti umani/Peace human rights», vol. III, no. 1, 2006, pp. 109-124.

A number of Statutes make specific contextual reference to a dual order of laws and principles: those of the national Constitution and those of international human rights law, specifically: the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union. In this area, too, the examples of innovation and novelty that came out of the research mentioned above are particularly significant. Out of the 2,372 Towns with a population of over 5,000, there are 846 which contain a reference in their Statute to one or more international legal instruments concerning human rights (Declarations or Conventions), equivalent to 36%. The United Nations Charter appears in 120 municipal Statutes, the Universal Declaration on Human Rights in 154, the International Covenant on Civil and Political Rights in 23, the International Covenant on Economic, Social and Cultural Rights in 20, the International Convention on the Rights of the Child in 200, the EU Charter of Fundamental Rights in 30. And all of 516 municipal Statutes reference the 1985 European Charter of Local Self-government.

Out of the 104 Provinces with standard autonomy, 57, or 55%, recall international legal instruments on human rights in their Statute: the United Nations Charter is mentioned in 9 Statutes, the Universal Declaration in 5, the International Covenant on Civil and Political Rights in 1, the International Convention on the Rights of the Child in 4, the EU Charter of Fundamental Rights in 6, the European Charter of Local Self-government in 44.

As concerns the Regions, 8 out of 20 refer to international legal instruments on human rights in their Statutes.

Thus, through the «peace human rights» norm included in these Statutes, the set of principles making up the core both of the Italian Constitution and of the «new» international law is incorporated into the living fabric of the Italian territory. These principles, since they recognise the fundamental rights of the person and of peoples, make up the first (written) part

of a world Constitution. Hence, by adopting the «peace human rights» norm, the local authority's Statute becomes a part of a system of principles of a «superconstitution» – as such, highly prescriptive – at the *glocal* level.

One may also add that, in explicitly recalling the norms of international human rights law, the local authority takes an active role in a process of linking international and domestic legal orders: the founding norm they have in common is that enshrining the obligation to respect the supreme value of human dignity and the inherent rights it brings with it. In short, by solemnly pledging to pursue the aims of its statute also in line with current international law, the local authority sets itself within the multi-level institutional architecture of world order and becomes an active part in ensuring the effectiveness of international law².

2. The Institutional Way to Peace

Linking human rights to peace is perfectly consistent with the dual duty of the local authority to be «close to its citizens», above all to protect their lives and to pursue the common good of the world, both in the spirit and in the letter of the proclamation of Article 28 of the Universal Declaration: «Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized». This is the concept of positive peace understood not as merely the absence of war but also and above all as the active practice of solidarity and cooperation between peoples to promote and realise human rights from one's own neighbourhood to the UN.

And so the local authority is entitled to compete with the state and with international institutions in protecting and promoting all human rights, including the right of the person and of peoples to peace. It is reasonable to think that, together with non-governmental organisations and volunteer groups, it will make an effective contribution to convincing the state to consistently pursue «the institutional way to peace», that consist of fully realising the principles and objectives of the United Nations Charter on the prohibition of the use of force in order to resolve conflicts, the peaceful resolution of the same, disarmament, global security (economic, social, environmental

² A. Papisca, *Relevance of Human Rights in the «Glocal» Space of Politics: How to Enlarge Democratic Practice Beyond State Boundaries and Build Up a Peaceful World Order*, in K. De Feyter, S. Parmentier, C. Timmerman, G. Ulrich (eds.), *The Local Relevance of Human Rights*, Cambridge, Cambridge University Press, 2011, pp. 82-108.

and public order) and multilateral cooperation. In short, with the «peace human rights» norm, the local authority is specifically expressing its intention to participate actively in the peaceful, fair, supportive and democratic regulation of globalisation, within the converging United Nations strategies of «human development» and «human security». Implicitly, it intends to help the state to equip itself with more appropriate instruments of governance, or rather, to update and redefine the very «shape» of a statehood that is no longer «sustainable» with the current contents and attributes.

The reference to internationally recognised human rights allows the principle of subsidiarity to be seen in the proper light, by nature within a framework of multi-level governance.

By adopting the «peace human rights» norm, the local authority becomes a part of the dynamics of «division of political labour» in an ever more interdependent and globalised world, and fosters the structuring of the *continuum* of roles, from one's own neighbourhood to the EU, to the UN and to the world, which is essential for the exercise of valid forms of democracy and popular political participation in effective decision-making³. Federalism, like the practice of democracy it reflects, is an institutional path which starts from below – indeed the local authority is the primary territorial pole of subsidiarity – and it serves to foster the exercise of better capacity for governance and good government in the respect of the rights of the person. The anthropological and legal roots of federalism and democracy, hence of subsidiarity at the various territorial and functional levels, lie in the human person, bearer of «primary subjectivity» inasmuch as bearer of rights and freedoms which domestic and international law recognise as inherent to the equal dignity of «all members of the human family», as the Universal Declaration states, and therefore these are universal, inviolable, inalienable, interdependent and indivisible.

It should be stressed that the challenges and repercussions of worldwide interdependence and of the connected processes of globalisation – in the economic, social and environmental fields – have a direct and capillary impact on the «local territory», that is, the place where people and groups live out their daily lives.

The greatest burden of providing practical answers, case by case, emergency by emergency, to the claims of their citizenship rights from those who live under their jurisdiction falls on the

³ M. Mascia, *Participatory Democracy for Global Governance. Civil Society Organisations in the European Union*, Brussels, P.I.E. Peter Lang, 2012.

local authority. The reference in their Statute to international human rights law bears witness to the local authority's choice as to the orientation it intends to follow, precisely in order to satisfy and promote equal rights of citizenship. This orientation also points to the route of «plural citizenship» as the way of redefining the pre-existing registered citizenships (national, subnational, EU) in harmony with universal citizenship, which is identified in the legal status of «human person» recognised by current international law⁴.

3. The Local Governments Responsibility to Protect

Along this route in advanced rights civilisation, the local authority can call upon the specific legitimisation deriving from the United Nations Declaration «on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms». The first of the twenty articles making up this significant legal tool reads: «Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels». From reading this text one may infer that the right and duty to protect human rights is not the exclusive prerogative of states, but that it is a world-wide jointly-held liability, and that the space within which activities defending human rights move has no borders, in other words the space for implementing human rights is the world-space, where the sovereignty of states – which are legally derived bodies – makes way for the rights of the person inasmuch as original holder (*pro quota*) of sovereignty. Article 7 provides that «Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance»: for example, with regard to the redefinition of the statute of citizenship, which was mentioned earlier. It should be noted that the aforementioned Declaration legitimises the actions of three types of actors: individuals, groups and organs of society. Local authorities fall into the «organs of society» category, as moreover specified by the Italian Constitution, under which Cities, Provinces and Regions are part of the Republic, not of the State.

⁴ A. Papisca, *Citizenship and Citizenship Ad Omnes Includendos: A Human Rights Approach*, 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*, Venezia, Marsilio, 2007, pp. 457-480.

In implementing the «peace human rights» norm, the local authority has some significant natural allies: these are the non-governmental organisations and volunteer groups, those working in education, both inside and outside the classroom, those in the labour and manufacturing world, especially small and medium enterprises.

In this perspective, the local authority becomes an active subject in the «one world» culture. Paradoxically, a fortunate paradox..., the local authority, the existence of which derives from its being tied to a territory, or rather it is «territory» by definition, by operating in favour of internationally recognised human rights and peace, redefines the category of territoriality in terms of equality and fundamental rights of human beings, transnational solidarity and hence of going beyond borders, as moreover set out in the aforementioned United Nations Declaration on Human Rights Defenders. Consequently, the local authority is committed to preventing and combating – particularly in the areas of education and training – all forms of racism, intolerance, xenophobia, Nazi-fascism and violence against people, animals or property.

Now, the local authority is the institution which, inasmuch as closest to the holders – both individuals and groups – of the right and duty to promote and «struggle» for human rights inside and outside their own State, not only shares its legal right to act in a «borderless» space, but is also under the obligation to educate and assist its citizens to effectively exercise this same right and duty.

The claim to local self-government, taken in its fullest sense, truly *self-government* and not merely *decentralisation*, is strengthened by referring to the principle of «responsibility to protect». Particularly within the NGO *United Cities and Local Governments*, which has consultative status at the United Nations and the transnational political movement which goes by the name of *City Diplomacy*⁵, it is held that, since the attainment of objectives of human security and human development, accompanied by human rights (civil, political, economic, social and cultural) must be pursued in the places where people live, particularly in the large urban concentrations of cities, a greater independence in decision-making must be recognised for local and regional authorities in order to allow them to exercise their specific «responsibility to protect» the internationally recognised

⁵ See «The Hague Agenda on City Diplomacy» adopted in June 2008 at the conclusion of the First World Conference on City Diplomacy, the Role of Local Governments in Conflict Prevention, Peace Building and Post-Conflict Reconstruction; A. Papisca, *International Law and Human Rights as a Legal Basis for the International Involvement of Local Governments*, in V. Musch, C. Van Der Valk, A. Sizoo, K. Tajbakhsh (eds.), *City Diplomacy. Conflict Prevention, Peace-building, Post-conflict Reconstruction*, The Hague, VNG International, 2008, pp. 27-44.

fundamental rights of all those who live within their respective territories.

Behind the claim made by local authorities to «joint participation» in the multi-layered architecture of world governance lies also the dual concern, fully shared by transnational organisations and movements from worldwide civil society, on one hand to take away the implementation of the very noble principle of the «responsibility to protect» human rights from the easily-exploited monopoly exercised by the more powerful states and on the other, to avoid the further demotion of the United Nations and other legitimate institutions of the international community to marginal roles.

In claiming «their» responsibility to protect, to be exercised by the non-violent means which are in their nature, local authorities are appealing to the duty of their respective states to avoid obstructing this activity, both within and outside their territories.

In the building of peace according to the aforementioned Article 28 of the Universal Declaration, the best route the local authority can embark on is that of a comprehensive policy for culture, or rather a cultural strategy focused around the concept of «education» as it is defined in Article 13 of the International Covenant on Economic, Social and Cultural Rights:

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

This concept is further clarified by papers produced by international institutions, specifically the 1974 UNESCO Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms, the World Programme for Human Rights Education launched by the United Nations in 2004 and by the 2011 United Nations Declaration on Human Rights Education and Training.

Local authorities support this type of education by setting up institutional frameworks and organised structures, operational programmes and the means needed to materially implement education to action, in close cooperation with schools, associations and volunteer groups. This also means, among other things, facilitating the performing of educational roles and exercising solidarity also at the transnational level⁶.

The choice of the «education» approach for the implementation strategy of the «peace human rights» norm is a choice for structural investment and allows one to nip in the bud the objections of those who maintain that local authorities have no competency in foreign policy and international cooperation. If human rights are recognised by the Constitution and by international law as «universal, interdependent and indivisible», if there is an obligation to educate to the respect of human rights including the right to peace, if the type of education «officially» recommended by the relevant institutional bodies is that favouring action, the local authority which acts to implement the «peace human rights» norm included in its statute in a manner which is consistent with the above assumptions, in addition to working for the good of its own local community, also helps the state to fulfil its international commitments. In short, it helps the state to uphold international legality. One could say that the local authority is acting in favour of human promotion and international legality.

⁶ A. Papisca, *Towards a Global Approach to Human Rights Education: A Call for Action*, in W. Benedek, M. Nowak (eds.), *Global Standards, Local Action. 15 Years Vienna World Conference on Human Rights*, Vienna, Verlag-Intersentia, 2009, pp. 313-319; Id., *Some Reflexions on Key Subjects of Human Rights Education and Training Integrated Approach*, in «Pace diritti umani/Peace human rights», vol. VII, no. 1, 2010, pp. 95-104; Id., *What Education for a Smart, Sustainable and Inclusive Growth in the EU? The Relevance of Human Rights Education*, in *European Yearbook on Human Rights*, Vienna, Verlag-Intersentia, 2009, pp. 393-401.