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## Human Rights Council

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Agenda item 5

Human rights bodies and mechanisms

### **Written statement\* submitted by the Habitat International Coalition, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 May 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Advisory Committee study on human rights and local government**

The Habitat International Coalition welcomes the Report of the Advisory Committee's tenth session, in particular the Advisory Committee's proposal to engage in a study of local government and human rights.<sup>1</sup>

Ms. Chung Chinsung's Concept Paper on Local Government and Human Rights noted recent developments in the movement of cities and civil society to promote the "right to the city" and "the human rights city" in concepts of local governance. The paper acknowledges the challenging urban context to realize the ideal that human rights apply to "every individual and every organ of the society."<sup>2</sup>

Human rights norms and obligations are the responsibility of the State; however, its institutions include civil servants and authorities at every administrative level. Implementing the bundle of human rights and obligations to respect, protect and fulfill them are inevitably local tasks.

Human rights obligations and practical tools to implement them can serve local public services and political representation for the majority of citizens and noncitizens. While human rights law theoretically applies to all aspects of public life, the review of a State's performance of its human rights treaties requires local authorities to face dilemmas and choices within human rights norms.

The question of operationalizing human rights at the important local level has been a subject of Human Rights Treaty Bodies' general treaty interpretation and specific State party reviews. Notably, the Committee on Economic, Social and Cultural Rights (CESCR) advises States parties to the Covenant on Economic, Social and Cultural Rights to 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," in particular the human right to adequate housing.<sup>3</sup> CESCR also has observed how fees imposed by local authorities and other direct costs may constitute disincentives to the enjoyment of the right to education.<sup>4</sup>

The Harmonized Guidelines on Reporting to the Treaty Bodies advises involving local governmental departments at the central, regional and local levels and, where appropriate, at the federal and provincial levels in the preparation of periodic reports.<sup>5</sup> CESCR's current reporting guidelines are replete with questions for States about the progressive realization of economic, social and cultural rights through the rule of law, nondiscrimination, the maximum of available resources and international cooperation in the provision of local

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<sup>1</sup> "Report of the Advisory Committee on its tenth session, Geneva, 18–22 February 2013," A/HRC/AC/10/3.

<sup>2</sup> Contained in action 9/1. See A/HRC/AC/9/6, 21 August 2012, pp. 17–18.

<sup>3</sup> General Comment No. 4: "the right to housing" (1991), para. 12.

<sup>4</sup> General Comment No. 11: "Plans of action for primary education (art. 14)," para. 7.

<sup>5</sup> "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents," HRI/MC/2005/3, 1 June 2005, para. 50, at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/422/26/PDF/G0542226.pdf?OpenElement>.

services and infrastructure.<sup>6</sup> This reflects the centralization of tasks, authorities and duties as a global practice of subsidiarity that diffuses burdens, responsibilities and functions.

The General Comment on the right to food stresses how responsibilities at multiple levels are essential to realizing that right. While “the State should provide an environment that facilitates implementation of these responsibilities,” increasingly local measures are needed to ensure food security and food sovereignty. In recent years, numerous good practices and policy models exemplify the pivotal role of local decision making and preparedness to ensure the right to food.<sup>7</sup> The Special Rapporteur on the Right to Food Olivier de Schutter also has noted the role of local government in ensuring realization of the right to food through an integrated national strategy.<sup>8</sup>

This integration of central and local government performance is essential, too, to the realization of the human right to water and sanitation.<sup>9</sup> The Independent Expert on the right to water and sanitation Catarina de Albuquerque has found a wealth of examples of good practice in which a State’s holistic approach involves local government monitoring and implementation of the right.<sup>10</sup>

CESCR has observed that “violations of the rights...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.<sup>11</sup> Indeed, the gross violation of the right to adequate housing

<sup>6</sup> “Guidelines on Treaty-Specific Documents to be Submitted by States Parties under Articles 16 And 17 of the International Covenant on Economic, Social and Cultural Rights,” E/C.12/2008/2, 24 March 2009,

<sup>7</sup> Delaware Valley Regional Planning Commission (DVRPC), *The Greater Philadelphia Food System Study* (2010), at: <http://www.dvrpc.org/food/FoodSystemStudy.htm>; DVRPC, *Food System Planning Municipal Implementation Tool # 18* (April 2010), at: [http://www.ruaf.org/ruaf\\_bieb/upload/3304.pdf](http://www.ruaf.org/ruaf_bieb/upload/3304.pdf); Victoria Local Governance Association, *Municipal Food Security Dimensions & Opportunities: Municipal Food Security Scanning Report* (2010), at: <http://www.vlga.org.au/site/DefaultSite/filesystem/documents/Food%20Security/VLGA.2011-09-06%20Food%20Security%20Report%201.pdf>; Kameshwari Pothukuchi and Jerome L. Kaufman, *Placing the food system in the urban agenda: The role of municipal institutions in food systems planning* (Kluwer Academic Publishers, 1999), abstract at: <http://newruralism.pbworks.com/f/PothukuchiKaufman.pdf>.

<sup>8</sup> “Report of the Special Rapporteur on the right to food, Olivier De Schutter: Mission to Canada,” A/HRC/22/50/Add.1, 24 December 2012, para. 16, at: [http://www.srfood.org/images/stories/pdf/officialreports/20121224\\_canadafinal\\_en.pdf](http://www.srfood.org/images/stories/pdf/officialreports/20121224_canadafinal_en.pdf). In his country mission to Canada, the Special Rapporteur noted that “Numerous municipalities across the country have opposed this restriction [posed in the draft Comprehensive Economic and Trade Agreement with the European Union] on the ability of local authorities to promote urban-rural linkages and local economic development through institutional purchasing, and have requested exemptions.” “UN food envoy scolds Ottawa's anti-poverty efforts,” CBC News (3 March 2013), at: <http://www.cbc.ca/news/politics/story/2013/03/03/pol-cp-un-food-envoy-slaps-ottawa-on-scrapping-census-and-eu-trade-talks.html>.

<sup>9</sup> CESCR General comment No. 15: “The right to water (arts. 11 and 12 of the Covenant)” (2002), para. 51.

<sup>10</sup> Catarina de Albuquerque with Virginia Roaf, *On the right track: Good Practices in realising the rights to water and sanitation* (Geneva: OHCHR, 2012), at: [http://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices\\_en.pdf](http://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices_en.pdf); and “Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque: Mission to Egypt,” 5 July 2010, A/HRC/15/31/Add.3, paras. 37, 45, 49, at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/149/35/PDF/G1014935.pdf?OpenElement>.

<sup>11</sup> General Comment No. 16: “The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3)” (2005), para. 42.

through forced eviction is often carried out by local authorities. The proposed Advisory Committee study could help further operationalize the UN Guidelines on Development-based Evictions and Displacement.

The further clarification of responsibilities, authorities and obligations of local government from the perspective of all human rights would come at an opportune time within the UN system and multilateral agencies. We note the recent initiative of UN Habitat to introduce a commitment to human rights in the operations of that specialized organization.<sup>12</sup> Indeed, all UN Charter-based agencies carry their tripartite commitment—to promote peace and security, development and human rights—in their services to, and indispensable coordination with local authorities.

The proposed Advisory Committee study could enhance current review of World Bank safeguards with regard to local governance. One of the demands of civil society to the safeguards review is to develop a governance policy, whereby the implementation of projects ensure human rights to effective participation (in decisions and benefits), freedom of association and the right to information.

Codification of the human rights dimensions of local government, as proposed, could contribute to ongoing debates and innovation that merge humanitarian assistance and longer-term development approaches within a human rights frame.<sup>13</sup> Ongoing policy reviews and normative development in the context of the Food and Agriculture Organization's Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests and emerging Agenda for Action to address protracted crises can benefit from such a clarification of local government's human rights roles.

Ms. Chung's Concept Paper amply summarized initiatives to operationalize human rights in charters such as the Global Charter-Agenda for Human Rights in the City, to which we note also the experience of Mexico City to implement its Right to the City Charter.<sup>14</sup> UNESCO efforts also have promoted the right to the city and may have important input into the Advisory Committee's proposed study.<sup>15</sup>

The elaboration of the human rights dimensions of local government could also envision a contribution to the OHCHR Professional Training Series for use in field operations. Recent social transformations especially raise the importance of democratic local governance as a way to develop civic participation and an unprecedented culture of citizenship.<sup>16</sup> The potential contributions of an Advisory Committee study on human rights and local government are diverse and warrant its support.

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<sup>12</sup> UN-Habitat commitment to the human rights-based approach to Development," HSP/GC/24/2/Add.7, 11 February 2013.

<sup>13</sup> E.g., Overseas Development Institute and Danish Foreign Ministry conference "Sanctuary in the City: Urban Displacement and Development: Moving the Debate Forward," 7 February 2013, at: <http://www.odi.org.uk/events/3116-urban-displacement-idp-refugee-humanitarian-development>; and "Sanctuary in the City," Land Times No. 6, at: <http://landtimes.landpedia.org/newsdes.php?id=o29p&catid=pQ==&edition=qA==>

<sup>14</sup> Ana Sugranyes and Charlotte Mathivet, "Mexico City Charter: The Right to Build the City We Dream About," *Cities for All: Experiences and Proposals for the Right to the City* (Santiago: HIC, 2010), page 259, at: <http://www.hic-net.org/articles.php?pid=3486>.

<sup>15</sup> Alison Brown and Annali Kristiansen, *Urban Policies and the Right to the City* (Paris: UNESCO and UN Habitat, 2009), at: <http://unesdoc.unesco.org/images/0017/001780/178090e.pdf>.

<sup>16</sup> "Why the Revolution Stopped at the Local Level" [print only] (Cairo: Tadamun, 2013).