

International Guidelines on Decentralisation and Access to Basic Services for all

UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME

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FOREWORD



This brochure includes two sets of guidelines approved by the Governing Council of UN-HABITAT in 2007 and 2009. By approving these guidelines, member states of the United Nations committed themselves to the promotion of decentralisation and strengthening of local

authorities, as well as access to basic services for all.

The guidelines have been designed to assist policy reforms and legislative action at the country level in two complementary areas of UN-HABITAT's mandate. They have been prepared through an intensive consultative and participatory process involving many partners, including UN agencies as well as national and local governments over the past decade.

Milestones in this process included:

- (a) In June 1996, the Habitat II Conference, where governments adopted the Habitat Agenda, which in paragraph 177 endorsed the principle of subsidiarity. The Governing Council at its nineteenth session in May 2003 re-affirmed that the principle of subsidiarity constitutes the underlying rationale to the process of decentralization. According to this principle, public responsibilities shall be exercised by those elected authorities, which are closest to the citizens;
- (b) In 1998–2000, the draft charter of local self-government, which provided an international framework for endorsement by governments covering the political, financial and legal relations between central and local government and the respective rights and responsibilities of each;
- (c) In 1999, the Global Campaign on Urban Governance, which promoted a global dialogue on the principles of good urban governance, which includes not only subsidiarity, but also sustainability, efficiency, equity, transparency and accountability, civic engagement and security;
- (d) In June 2001, the special session of the General Assembly for an overall review and appraisal of the implementation of the Habitat Agenda ("Istanbul + 5"), which acknowledged the important role played by local authorities and their associations in the implementation of the Habitat Agenda and recommended to further strengthen their capacities;
- (e) In 2002, the first session of the World Urban Forum, during which a dialogue on decentralization was organized. That led to the adoption by the Governing Council of resolution 19/12 in May 2003.
- (f) In parallel, the discussion on access to basic services for all gained momentum at the World Summit on Sustainable Development (WSSD), held in Johannesburg, in South Africa, from 26 August to 4 September 2002. It continued at the 12th session of the United Nations Commission on Sustainable Development (CSD), in New York, USA, from 14 – 30 April 2004.
- (g) In April 2005, the Governing council of UN-HABITAT adopted resolution 20/5, which took into account a proposal to develop a set of codes and recommendations on partnerships and on the role of various actors submitted during the CSD 12. That proposal was set out in a working paper entitled "Access to basic services for all: towards an international declaration on partnerships", which was produced by the United Nations Human Settlements Programme (UN-HABITAT) and the United Nations Institute for Training and Research (UNITAR) based on informal consultations with various partners. Participants at the second session of the World Urban Forum, held in September 2004 in Barcelona, Spain, also had recommended that the issue of access to basic services for all should be placed on the agenda of the twentieth session of the Governing Council.

There have been considerable efforts to support the preparatory process henceforth with the establishment of the Expert Group on Decentralization (AGRED), the strengthening of the United Nations Advisory Committee of Local Authorities (UNACLA) and the establishment of an Expert Group on Access to Basic Services. The two sets of guidelines presented here are the ultimate results of these international efforts.

This publication stresses the coherence and complementarity between the Guidelines on decentralization and strengthening of local authorities and the Guidelines on access to basic services. Both guidelines may now be adapted to the specific country situations.

A handwritten signature in black ink, reading "Anna Tibaijuka".

Mrs. Anna Tibaijuka,
Executive Director, UN-HABITAT

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INTERNATIONAL GUIDELINES ON DECENTRALISATION AND STRENGTHENING OF LOCAL AUTHORITIES

I. OBJECTIVES

1. The international guidelines on decentralization and strengthening of local authorities were approved by the Governing Council of UN-HABITAT on 20 April 2007¹ as a key instrument to promote good governance at all levels and to strengthen local authorities. They shall serve as a catalyst for policy and institutional reform at the national level to further enable and empower local authorities to improve urban governance in attaining the human settlements-related Millennium Development Goals.
2. The Habitat Agenda recognizes, in paragraph 177, that sustainable human settlements development can be achieved “through the effective decentralization of responsibilities, policy management, decision-making authority and sufficient resources, including revenue collection authority, to local authorities, closest to and most representatives of their constituencies”. It also recommends, in paragraph 180, that “Governments should examine and adopt, as appropriate, policies and legal frameworks from other States that are implementing decentralization effectively”.
3. In recent years, the concepts of local autonomy or local self-government have been used to reflect, from a local authority perspective, the widely recognized need for decentralization. Effective decentralization is today regarded as an element of good governance and an expression of democratic practice and effective and efficient public administration. It is also recognized that elected local authorities, alongside national and regional authorities, are key actors in democratic governance and administration, which collaborate with national and regional authorities but also have their own autonomous spheres of public action.

2. BACKGROUND

4. In the follow-up to the Habitat II Conference held in 1996, local and national spheres of Government, in close collaboration with UN-HABITAT, started exchanging ideas on a possible “World Charter of Local-self Government” to strengthen the role of local authorities in implementing the Habitat Agenda. A first draft of the Charter was discussed among interested parties in a series of regional consultations between 1998 and 1999.
5. Following these discussions and taking into account their outcomes, the Governing Council in 2001 requested UN-HABITAT to intensify its efforts to make the international dialogue on decentralization “as open-ended and inclusive as possible” and to forge consensus among member states on decentralization policies in the development process.
6. UN-HABITAT commissioned a survey and presented a report in 2002 stressing the importance of effective decentralization for enhancing local governance in support of the implementation of the Habitat Agenda. The survey noted that a number of developed and developing countries were involved in redefining relations between their different territorial jurisdictions on one or more of the following: transferring or streamlining functions, redefining decision-making powers and authority, and reallocating resources. Invariably, the consequences of such changes had a bearing on the political, economic and administrative roles and responsibilities in the management of social, economic and environmental affairs at the local level.
7. These and other findings informed a series of focused debates involving experts and interested groups, which created a new momentum in the ongoing dialogue on decentralization.
8. Further to this report, the Governing Council, in Resolution 19/18 of 9 May 2003, called on UN-HABITAT to “establish a multi-disciplinary ad hoc advisory panel on decentralization with balanced participation of developing and developed countries to support the dialogue process”. The Advisory Group of Experts on Decentralization

¹ See resolution 21/3 in annex 1

(AGRED) was subsequently established with the mandate to provide advice on the international dialogue on decentralization and to contribute substantively to developing recommendations and documenting best practices on decentralization and strengthening of local authorities.

3. PREPARATORY PROCESS

9. The inaugural meeting of AGRED was held in Gatineau, Canada, in March 2004, with the support of the Federation of Canadian Municipalities (FCM). From 2004 to 2007, the secretariat of UN-HABITAT, supported by the members of AGRED, carried out intensive analytical activities to capture the state of decentralization in the world. These efforts included: (i) reviewing the existing relevant international legal instruments of relevance to the strengthening of local democracy², (ii) analyzing national legislation and regulations and other norms of decentralization, as well as evaluating the experience of countries with such policies and their legal frameworks, and (iii) identifying cases of best practices in the development and implementation of decentralization legislation and policies around the world. Apart from regular electronic correspondence to share information and knowledge, the Experts Group held a several substantive meetings³.
10. At its twentieth session in 2005, the Governing Council of UN-HABITAT was presented with a comprehensive report⁴, which annexed a first draft of the requested guidelines on decentralization. The Governing Council adopted Resolution 20/18 in an attempt to forge further consensus inviting national governments to provide their comments on the draft guidelines, and to assist in documenting cases of best practices for incorporation in the compendium of best practices
12. The guidelines outline the main principles underlying the democratic, constitutional/legal and administrative aspects of local governance and decentralization. At the same time, they must be applied to specific conditions of state form (federal, regionalized or unitary), with different state traditions (for example, Napoleonic, Germanic or Anglo-Saxon, as well as traditions found in Asia, or in the Arab world). For that reason, they do not provide a uniform and rigid blueprint applicable to all Member States of the United Nations. They may be subject to national adaptations. Their main objective, however, is to support and guide legislative reform where necessary and appropriate.
13. The approval of the guidelines by the Governing Council of UN-HABITAT in April 2007 has been a major breakthrough, as they represent the ultimate outcome of over a decade of normative and advocacy work, which has involved extensive consultations between member states and the United Nations, through UN-HABITAT, working with local authorities and a large number of experts. The guidelines are, therefore, the product of a general consensus among all Habitat Agenda partners, who have been involved in their development. They provide the international community with the means to engage member states in one of the key aspects of the Habitat Agenda and the Millennium Development Goals – to support efforts in strengthening local authorities worldwide.

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