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Centre suisse de compétence pour les droits humains (CSDH)
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Swiss Centre of Expertise in Human Rights (SCHR)

Local Government and Human Rights

Human Rights Council, Advisory Committee, 26th February 2014, Geneva
Swiss Center of Expertise in Human Rights (SCHR), Andrea Egbuna-Joss

Dear Mr President

Dear Members of the Advisory Committee

Thank you very much for the invitation to speak on the role of local government in the promotion and protection of human rights.

As was already mentioned, I work for the **Swiss Center of Expertise in Human Rights**. The Center is a pilot project, funded by the Swiss government, whose evaluation will provide a basis for the government to decide about the creation of a Swiss National Human Rights Institution after 2015. It is a service center for public authorities, civil institutions and the corporate sector with the main task to promote and facilitate the process of implementing international human rights obligations at all levels of the Swiss political system.

The Center has examined the **role of government at the cantonal and municipal level** in the promotion and protection of human rights in various studies, and some of our findings might be interesting in the present context.

Please bear in mind that I am speaking from a **Swiss perspective**. Switzerland is a federal state, with a federal government, 26 cantons that enjoy a high degree of independence, and over 2000 municipalities. The cantons have their own constitutions, own parliaments, own governments and even their own courts. According to the Swiss constitution, a lot of areas that international human right treaties touch upon are in the competences of the cantons (e.g. police, prisons, the school system, the relationship between state and religion). As a result, the cantons have implemented international human rights obligation in different ways, which is not necessarily a bad thing. Our federal system also allows more progressive cantons to go ahead with solutions that would not find a consensus at the national level. Of course, a minimum standard of protection must be ensured at all times.

What are some of the **main challenges** we discovered?

1. We found that **at the local level human rights are often being protected and promoted to a greater extent** than what might first meet the eye. This is mostly due to the fact that the theoretical knowledge about international human rights law is often lacking. The local authorities generally refer to the fundamental rights in the cantonal or federal constitution, maybe to the European Convention on Human Rights, but not very often to the UN human rights treaties. From a substantive law point of view, however, the guarantees in these different documents are often equivalent. This needs to be kept in mind when examining the role of local government in the protection and promotion of human rights.
2. **A sense of ownership is important**. We found that especially the cantons want to be more involved in the decision-making process. They often have a rather **dismissive attitude**



towards a top-down approach. They do not like to be told what to do when they have not been involved in the previous decision-making process. As a result, the follow-up to recommendations of international treaty bodies and to the recommendations made during the UPR has in the past often been rather poor.

The Swiss government took this into account during the **second UPR of Switzerland in 2012**. Whereas the cantons were not involved at all in the 2008 UPR and later told us that they were not even aware of that new review procedure, they were allowed to play a more active role in 2012. The cantons were present in Geneva during the review of Switzerland. They also established a consultation system beforehand that allowed them to give a consolidated opinion on whether recommendations that touched cantonal competences should be accepted or rejected by the Swiss government. The hope is, of course, that this involvement of the cantons will thus improve the quality of the follow-up to the accepted recommendations.

3. There is a need to **improve coordination and communication.**

Government at the local level and also the cantons are often overwhelmed by the sheer number of different international treaties, provisions, the requests for data, state reports etc. Like everywhere, resources are scarce. If the information is therefore not presented in a coordinated way that highlights the areas of particular relevance for the local authorities, there is a risk that not much will be done.

Access to the relevant information needs to be improved. It is important that the international documents are translated to the national languages and that they are easily available on the government website or through other means.

Communication between the different levels of government can be improved by clearly identifying the persons in charge at each level.

I would like to conclude my presentation by mentioning two **best practices**.

1. **Promotion of equality of women and men at the local level:**

Most cantons as well as some municipalities have offices that promote equality between women and men in all areas of life. They are centers of competence for all questions relating to gender equality, they advise cantonal and communal authorities, offer training and provide information to the public. The Swiss Conference of Gender Equality Delegates (www.equality.ch) brings together federal, cantonal and communal equality offices.

2. **Cantonal and communal offices of ombudsman**

The cantons of Basel-Landschaft, Basel-Stadt, Vaud, Zug and Zurich as well as the cities of Bern, Lucerne, St. Gallen, Rapperswil-Jona, Wallisellen, Winterthur and Zürich have established ombudsman offices. These offices are independent organs that mediate in case of conflicts between private individuals and authorities. They have access to all information, and even though they are not authorized to make binding decisions but only recommendations, they have proven to be a successful means to resolve disputes.



Discussion:

1. Concern that “the more local, the less democratic”:
 - This is not true from a Swiss perspective. Switzerland has a direct democracy at all levels of government. If a matter is in the competence of the local authorities, the people are/can be involved by means of referenda, public votes and elections.
2. Concern that there are no institutions at the local level and only loose links to the federal government:
 - Once again, this is not true from a Swiss perspective. We have established institutions at all levels of government. If the local government fails to implement and protect human rights, individuals can file a complaint, up to the national Supreme Court or even the European Court of Human Rights.
3. Suggestion that the national government needs to be given more power in order to deal with local authorities that do not comply with human rights obligations:
 - A suggestion that I would oppose to from a federal point of view. What is needed is rather a shift in the responsibilities of the national government. Instead of micro-management at the local level, the national government needs to be given the power to effectively oversee the implementation at the local level. Implementation and compliance at the local level can primarily be ensured by effective judicial review, but also by other means like e.g. the establishment of an approval procedure of cantonal constitutions by the federal parliament.

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