



COVID-19 AND CITIES A YEAR LATER: WHAT DID CITIES DO RIGHT?

| A REPORT

DATE

1st July 2021

15.00 - 17.00 (GMT+3) Nairobi time

ORGANIZED BY

Institute of Advanced Legal Studies

IN COLLABORATION WITH

UN-Habitat

Eighteen months after COVID-19 was declared 'a public health emergency of international concern' by the World Health Organization and then later upgraded to a 'pandemic' the world has gone through profound changes. Millions of lives have been lost, tens of millions of jobs have been destroyed and our way of socializing has been greatly transformed.

Urban areas have undoubtedly faced the brunt of COVID-19 due to the concentration of populations, economic activities and social institutions while in some contexts, these factors have been compounded by poverty, unequal access to basic services, overcrowded living conditions and weak institutional capacities and health systems. The extent of underlying social and economic inequalities in cities has been laid bare as various groups have been disproportionately hit by the pandemic's health and associated effects. It has also brought forward issues relating to the rule of law as emergency powers have threatened human rights and made accountability more difficult especially as legislatures and courts in many countries were forced to substantially limit their operations.

At the same time, cities have been at the frontline of response to the pandemic and have carried a significant portion of the health and socio-economic recovery efforts.

In coordination with other levels of governments, cities throughout the world have not only controlled the spread of the virus, but have also ensured a continuation of service delivery, and designed various programs targeted at providing social assistance and catalysing 'post pandemic' economic growth. As some countries continue to struggle with the health and wider effects of COVID-19, others are beginning to emerge from the 'lockdowns' with an attempt at normalcy being made. Even within these countries, cities are at various stages of the recovery spectrum and it is expected that this trend will continue with many countries accelerating their vaccination programs.

The **8th Urban Law Day** sought to reflect on the past year, evaluating policies, plans, regulations, and actions that were adopted by or operated in cities with the objective of assessing their success or otherwise. In particular, this year's session asked: **what did cities do right in the COVID-19 context?** This discussion was aimed at promoting learning, knowledge sharing and exchange of information and experiences which will better inform the creation of "future-ready cities" that are better prepared to deal with similar crises.

OPENING REMARKS



Dr Constantin Stefanou, *Director, Sir William Dale Centre for Legislative Studies, Institute of Advanced Legal Studies (University of London)*

This 8th Urban Law Day represents the tip of the iceberg of the IALS and UN-Habitat partnership, which we are very proud of. What started as a chat about possible training at IALS for UN-Habitat and its partners has evolved into a series of training programmes and of course the annual Urban Law Day. With the New Urban Agenda, the peripheral became central to sustainable development, no less due to the excellent and original work of UN-Habitat in promoting the relevance of law in development.



Anne Amin, *Legal Specialist, Policy, Legislation and Governance Section, UN-Habitat*

Urban law remains an underexplored field despite affecting the lives of the majority of the world's population. The pandemic has brought to the fore the centrality of laws and regulations for effective crisis response. It has highlighted the importance of using appropriate regulations grounded in evidence and promoting public trust and compliance. The unique roles of each different level of government became paramount to successful crisis management. National governments stood out for their coordinating roles and local governments to address issues on the ground and develop recovery strategies. Forums like the Urban Law Day are crucial to share knowledge about emerging urban law best practices and how these may be harnessed for sustainable and inclusive urbanization worldwide.



Urban legislation and Governance for a Resilient Urban Future

Gianluca Crispi, Legal Specialist, Policy, Legislation and Governance Section, UN-Habitat

UN-Habitat's "Cities and Pandemics: Towards a More Just, Green and Healthy Future" report surfaced the heterogeneity of 200 government responses of governments worldwide with a renewed belief in the public sector in achieving public health outcomes and providing social support, delivering essential services, and reversing chronic lack of spending. Vertical and horizontal coordination between different levels of government and other sectoral actors and territorial-specific approaches emerged as enabling factors of successful responses. Equally, inclusive community engagement, with an explicit focus on reaching out to different ethnicities, social class, and gender, helped build trust in institutions. While the path to recovery may look different for each country, leaders worldwide share a common vision: "build back better", repairing the social fabric while transitioning to a more sustainable future.



Is coping enough? Doing what should have been done in South African cities

Prof. Marius Pieterse, The University of Witwatersrand

As they approach the third COVID-19 wave, South African cities have yet to go beyond the 'coping phase'. In line with the Disaster Management Act 57 of 2002, the pandemic response has been centralised in nature, with cities only playing a supporting role to the national executive. The scarcity of resources at the municipal level came to the fore throughout the crisis, with severe personal protective equipment shortages and inadequate ICT infrastructure to carry out municipal government functions. Yet, some municipal governments were able to find creative solutions within these constraints. Through integrated development planning, many repurposed city-owned buildings to provide essential services, leveraged fresh produce market for food parcel distribution, and providing bespoke support for informal traders and drug users. Coordination structures between urban actors, including the municipal government, civil society, community organizations, and the private sector were a key prerequisite of success. Ultimately, coping for many South African cities has meant doing everyday business, but better and in a more humane way. Will this outlast the crisis?



The Rule of Law and Public Health Emergencies

Dr Jean-Pierre Gauci, Arthur Watts Senior Research Fellow in Public International Law and Director of Teaching and Training at the British Institute of International and Comparative Law

The rule of law is an enabling factor of effective responses to Public Health Emergencies (PHEs). It provides a parameter of the legitimacy of the measures, it creates public trust, and it can improve compliance. Yet, the COVID-19 experience taught us that that the rule of law is likely to be under strain during PHEs, for example, with the diminished activities of parliaments and judicial courts. For some governments, the pandemic offered a pretext to intensify migration control and greater surveillance of populations. Discrimination of minorities slipped through the cracks. Clear principles for the rule of law in PHE need to be adopted going forward. These include (but are not limited to):



- ▣ **Necessity:** measures should be taken only if necessary and informed by the best available evidence



- ▣ **Proportionality:** restrictive measures must be proportional to the intensity of risk



- ▣ **Non-discrimination:** preventative measures need to be taken against discrimination based on ethnicity, gender, age, disability status, and others, as well as positive action measures to overcome existing/historical disadvantage and generally positive efforts to promote the rights of the most vulnerable.



- ▣ **Effective remedy and judicial review:** access to justice, representation, and information needs to be protected at all times.

Safeguarding the rule of law and adopting processes that guarantee its functioning will help crisis-proof our governments and societies beyond COVID-19.



One Healthy Resilient cities

Elisa Scotti, Associate Professor, Global Environmental Law

COVID-19 has shown us how vulnerable our societies are to zoonotic disease, reinforcing the strong link that exists between human health, animal health, and the state of the environment. Promoted by international agencies like the WHO and FAO, the One Health approach calls for transdisciplinary and collaborative action between teams that have expertise in human, animal, and environmental issues. As we head towards COVID-19 recovery, cities can be catalysts of One Health approaches. Implementing environmental impact assessments, promoting biodiversity and conservation, encouraging greener developments are among some of the actions that cities can take to build their resilience and promote health for future generations. This will require cross-sector collaboration between the public and private sector, academia, and civil society, as well as coordination between different levels of government.



The Mexican experience: learning the hard way

Tania Romero, Urban Legislation and Governance Coordinator, Urbanistica.mx

Mexico was one of the countries that has been hardest hit by COVID-19. While the pre-existing structural inequalities and weak municipal finances can explain the poor crisis response, a lot can be learned about what governments could have done better. A key issue was poor communication on restriction measures and transparency about the government's overarching strategy. This was further aggravated by a lack of coordination between levels of government and misallocation of resources. The result was a lack of compliance and public distress, which undermined government trust and weakened the government response even further. Some lessons are being learned, however. Some municipal governments update regulations and planning instruments towards capacity development and greater financial independence through income generation and use evidence-based policy to inform recovery strategies. It remains to be seen whether this will be sufficient to make Mexican cities crisis-proof.

KEY LESSONS: WHAT DID CITIES DO RIGHT?

Systems of multi-level governance helped cities to be more resilient during the crisis. In South Africa for example, where strong structures for cooperation between local governments and higher levels of government existed, these held up throughout the crisis. On the other hand, in Mexico, lack of coordination between national and subnational governments, especially with regards to emergency measures, made it harder to respond to needs on the ground. According to the UN-Habitat report *"Cities and Pandemics: Towards a More Just, Green and Healthy Future"*, the pandemic also encouraged horizontal systems of governance across neighbouring municipalities at the metropolitan scale. Within cities, some local governments were successful at playing a steering role across civil society, private sector, academia and other actors and organizing ad hoc meetings. Thanks to these, some South African cities were able to respond to food security needs and prevent evictions by leveraging the community knowledge and networks of civil society organizations. For cities to be truly resilient to future shocks however, some of the ad hoc structures that emerged during the crisis should be institutionalized.

Adaptability to use budgets and shift resources was key to find tailored solutions and provide emergency support. While some cities were more prepared than others to face a complex crisis such as COVID-19, all of them had to think on their feet, be flexible and shift resources. Many cities accelerated digital take-up and innovation, repurposed city-owned buildings, and stepped-up support for vulnerable groups such as informal traders, drug users, and residents of informal settlements. Flexible finance and development planning tools are required for cities to display such adaptability. Integrated development planning for example – an approach that involves different actors a city to co-create the local vision for development – has been helpful for South African cities like Johannesburg to repurpose budget and mobilize resources based on most immediate need.

In times of emergency, safeguarding human rights is imperative. With reduced parliamentary scrutiny, limited access to justice, and the imposition of states of emergency, human rights breaches were harder to detect throughout the crisis. While government use of digital increased exponentially, the risk of privacy breaches and increased surveillance increased, potentially undermining democratic governance and human rights. Equally, crises may be fertile ground for corruption, for example by promoting unjust tendering processes that divert resources away from public needs. While crises necessitate emergency measures, these should not be traded off for the protection of human rights and upholding the rule of law, and all measures should be founded on best available evidence and be subject to regular review.

Clear and transparent communication between government and the public is crucial to create compliance and build trust. Misinformation and lack of clarity of measures across different levels of government undermined effective responses to the pandemic. In Mexico, such lack of clarity about emergency decrees led to public unrest and police violence. According to UN-Habitat's *"Cities and Pandemics: Towards a More Just, Green and Healthy Future"* report, open communication and engagement with the public was essential for cities to foster public compliance with restrictions cities and achieve better outcomes.



Building city resilience for future crises requires holistic approaches to public problem solving. The next crisis, like COVID-19, is likely to cross sectors' boundaries and affect multiple aspects of cities' responsibilities. The climate change crisis has already challenged society's ability to address complex issues that no actor or discipline can address it on their own. Cities, like the ones involved in the One Health initiative, can facilitate the breaking of silos across sectors and disciplines by adopting solutions that recognise the interconnectedness of public problems and catalyse collaboration across different actors.

PROGRAMME

14:00-14:15 - Introduction & Welcome address

- **Dr Constantin Stefanou**, Director, Sir William Dale Centre for Legislative Studies, Institute of Advanced Legal Studies (University of London).
- **Anne Amin**, Legal Specialist, Policy, Legislation and Governance Section, UN-Habitat.

14:15- 15:15 - Presentations

- **Prof. Marius Pieterse**, The University of Witwatersrand - "Is coping enough? Doing what should have been done in South African cities".
- **Gianluca Crispi**, Legal Specialist, Policy, Legislation and Governance Section, UN-Habitat - "Responses to the Pandemic: Urban Legislation and Governance for a Resilient Urban Future".
- **Dr. Jean-Pierre Gauci**, Arthur Watts Senior Research Fellow in Public International Law and Director of Teaching and Training at the British Institute of International and Comparative Law - "The Rule of Law and Public Health Emergencies".
- **Elisa Scotti**, Associate Professor, Global Environmental Law, Administrative Law, Founding member of Global Pandemic Network - "One Healthy Resilient cities".
- **Tania Romero**, Urban Legislation and Governance Coordinator, Urbanistica.mx - "The Mexican experience: learning the hard way".

15:15-16:00 - Q & A - Discussion

