

Localising Fundamental Rights and the Role of Cities: Some Preliminary Reflections and Emerging Perspectives

Francesca Neyroz

University of Bologna

Abstract

The 21st century is often described as the “era of cities,” as processes of urbanisation, globalisation, and technological development have generated – and continue to generate – a renewed centrality of urban contexts. These dynamics compel local authorities to confront some of the most pressing contemporary challenges, including housing issues and the consequences of climate change. This paper aims to establish an initial framework for understanding the potential implications of this renewed centrality for the role of cities within legal systems, with a particular focus on the recently emerging nexus between the urban context and fundamental rights. The research perspective adopted is grounded in the belief that the localisation of fundamental rights cannot be regarded as a neutral phenomenon, especially in light of the traditional function of such rights as limits on state power. Accordingly, this study offers a preliminary analysis of the extent to which the localisation of fundamental rights may signal a potential shift in the constitutional role of cities.

Keywords: cities, fundamental rights, human rights cities, housing

Riassunto. *La localizzazione dei diritti fondamentali e il ruolo delle città: prime riflessioni e nuove prospettive*

Il XXI secolo è spesso descritto come l’«era delle città», poiché i processi di urbanizzazione, globalizzazione e sviluppo tecnologico hanno generato — e continuano a generare — una rinnovata centralità dei contesti urbani. Tali dinamiche impongono alle autorità locali di confrontarsi con alcune delle più urgenti sfide contemporanee, tra cui le problematiche abitative e le conseguenze del cambiamento climatico. Il presente contributo si propone di delineare un primo quadro di riferimento per comprendere le potenziali implicazioni di questa rinnovata centralità sul ruolo delle città all’interno dei sistemi giuridici, con particolare attenzione al recente emergere del nesso tra contesto urbano e diritti fondamentali. La prospettiva di ricerca adottata si fonda sulla convinzione che la localizzazione dei diritti fondamentali non possa essere considerata un fenomeno neutro, soprattutto alla luce della funzione tradizionale di tali diritti quali limiti al potere statale. In questa ottica, lo studio offre un’analisi preliminare della misura in cui la localizzazione dei diritti fondamentali possa segnalare un potenziale mutamento nel ruolo costituzionale delle città.

Parole chiave: città, diritti fondamentali, human rights cities, diritto alla casa

DOI: 10.32049/RTSA.2026.1.06

1. Introduction

Multiple factors have contributed to defining the 21st century as the era of cities (Hirschl, 2022), and all of them have determined what an Italian scholar called a renewed centrality (Carloni, 2016) of the urban context. Indeed, urbanisation (ex multis, Smart and Smart, 2003), globalisation and technological development are producing such severe impacts on the social and economic structure of cities that local authorities now must deal with some of the most

crucial challenges of today, from housing issues to climate change consequences (Jessop, 2017; Castells, 2008; Gregotti, 2010; Pizzolato, 2024). In addition to these phenomena, other scholars suggest that the process of European integration may also be fostering the valorisation of the local dimension (De Donno, 2024). The reasons that led to this new consideration are varied and do not fall within the scope of the article, which is, in fact, interested in the consequences of this renewed centrality on the role of cities within the institutional architecture of the legal order. More precisely, this paper aims to investigate this issue by considering the recently emerging nexus between the urban context and fundamental rights. The rationale for examining the status of cities from this perspective is essentially twofold, and the two dimensions are closely interconnected. First, cities increasingly invoke the category of fundamental rights, even though they do not have direct competence in this field. Second, fundamental rights are far from a neutral category, given their profound significance for the constitutional functioning of a legal order. In this light, the emerging nexus between cities and fundamental rights may be interpreted as a possible indicator of the evolving role of cities within the institutional architecture of the State.

Therefore, I will first briefly examine the status of cities within States, with a particular focus on the Italian legal system. Then, I will analyse some cases that exemplify the fundamental rights-cities nexus. Finally, I will explore the concept of fundamental rights in order to emphasise how deeply rooted it is at the national level, and to draw some initial conclusions about what the recent invocation of this category at the local level may suggest about the role of cities within legal orders.

2. The status of cities within national legal orders

Different models exist for regulating the role of local entities, based on each state's tradition and institutional choices; at the same time, it is possible to identify a series of features indicating that cities are, from a strictly formal perspective, marginalised. This is what an eminent scholar termed a constitutional silence on cities. Indeed, Ran Hirschl notes that «as

the modern state has effectively eliminated the city as a formal political entity, constitutional representation of the urban – the habitat of over half the world’s population – remains minimal» (Hirschl, 2020, p. 18). The consequence of such a lack of constitutional recognition (Hirschl, 2020) is that urban public actors possess limited means to exert constitutional influence on other institutional levels. This situation is rooted in the state-centred nature of modern legal systems, linked to the process of state formation in Europe and the consequent subjugation of the medieval city (Hirschl, 2020, p. 31). The gradual organisation of society into nation-states has led to the absorption of cities and their treatment as mere ‘creatures of the States’ (Frug, 1980). To better understand the implications of this shift, it is worth considering what Hirschl (Hirschl, 2020, p. 31) observed: «as states sought to establish their monopoly over the legitimate exercise of physical force and authority; enhance their influence on economic and social life; and, most importantly, control “who gets what, when and how” within their respective territories, they also laid stronger and stronger claims to primacy as the focus of popular loyalty and collective identity» (Hirschl, 2020, p. 31).

Hence, following a period of remarkable flourishing and significant autonomy that began in the 11th and 12th centuries, cities came to be perceived merely as local entities exercising authority over their territories solely under, and by virtue of, the State’s sanction. As noted by Frug, it has not been just a matter of legal recognition and associated political powers, but also, and perhaps more importantly, «that cities have lost the elements of association and economic strength that had formally enabled them to play an important part in the development of Western society» (Frug, 1980, pp. 1119-1120).

However, before the urban sphere was fully absorbed into the national structure, cities had already demonstrated remarkable vitality, playing a decisive role in shaping some of the foundational elements of the modern State. Among these, the domain of fundamental freedoms and rights stands out, having undergone profound transformations alongside the evolving role of cities within legal orders. This dynamic becomes particularly evident when examined from a historical perspective.

Indeed, an analysis of its formative moments highlights a profound and intrinsic connection between freedom and the city (ex multis, Zorzi, 2020). In the 11th and 12th centuries, cities

began to thrive, asserting their distinct identity and legitimising themselves vis-à-vis other powers of the period – such as the Church, the Empire, and the Monarchies – through their claims for emancipation and the promotion of freedom for the inhabitants within the city walls (Zorzi, 2020).

This attitude is evident in the analysis of certain cities' statutes. In these documents, which establish the main rules for governance, the 'fundamental freedoms' of citizens are simultaneously guaranteed, often including significant rights of self-government (Zorzi, 2020). It is undoubtedly due to this innovation that the increasing reputation of urban areas as spaces of emancipation and liberation can be attributed, especially to those parts of the population who, elsewhere, faced the typical limitations of a society built on rigid social hierarchies and vassalage relationships. This point is emphasised not only by legal historians but also by scholars like Silvia Federici, who, in the book *Calibano e la Strega*, examines from a feminist perspective the origins and development of capitalism. In this work, Federici highlights the contribution of the urban environment to women's conditions, emphasising that

In cities, many of them [women] lived in miserable conditions, performing low-paid work such as domestic service, street vending, and prostitution. It must be said, however, that living in urban centres, among the most assertive segments of the medieval population, afforded them a new form of social autonomy. City ordinances did not liberate women; few could afford to purchase the "freedom of the city" [...]. Yet, in cities, women were less subject to male guardianship (Federici, 2020, p. 44).

An exceptional example of the emancipatory potential of cities, and above all the collective consciousness of the role played by the urban environment, is represented by the famous *Liber Paradisus*, which listed the peasants who were freed from the condition of servitude they had been subjected to in the countryside.

It is highly significant that in 1257, the year of the publication of the *Liber Paradisus*, the city of Bologna initiated the first stage of a process that, although it would not be fully realised until much later, ultimately led to the abolition of slavery. Indeed, the content of this act clearly demonstrates the inseparable connection between urban contexts, even in their early

development, and fundamental freedoms. On closer examination, the urban space appears as the natural environment in which human beings can hope to achieve emancipation from centuries of slavery. The text drafted by the Bolognese notaries reveals and reaffirms the historical role of the city, making it clear that such a measure is the result of a particular consciousness – the urban awareness – in a town like Bologna, «which has always fought for freedom, mindful of the past and preparing for the future [...] redeemed for money all those who, within the city and diocese of Bologna, it found oppressed by the servile condition» (Giansante, 2007, p. 1). Although it was still far away from the modern universal recognition of human dignity, however, the reference to awareness of the past and the gaze toward the future is meaningful for our purpose, because it indicates an intention to assert a role and responsibility concerning the fate of human affairs.

According to the framework briefly explored, it is possible to stress that although the role played by the economy is often mentioned as one of the most significant for its impact on city development (Weber, 1950), another central aspect is represented by liberties and rights. Berman notes that, among the factors that shaped the European city, the legal one played a particularly significant role. Indeed, the Author speaks about urban legal consciousness (1998, p. 356), referring, among other things, to the charters of liberties, the equality of citizens' rights, the collective contribution to the production of laws, and the representative government.

Thus, it is hard to conceive of the European city and its development without considering the importance given to the rights of its inhabitants and to a relation between citizens and political power based on principles totally different from those that governed under feudalism.

If it is true that contemporary cities also regard rights as a central issue, it is equally valid that even in this domain, the state-centric framework remains evident. Due to the institutional role assigned to cities, the way they engage with rights displays characteristics typical of such a role. The following paragraph is dedicated to analysing this aspect, namely the position of urban areas from a legal perspective, with a particular focus on the Italian legal order.

2.1 Cities' status within the Italian legal order

The constitutional silence mentioned by Ran Hirschl doesn't refer to the fact that cities are not radically considered within the institutional framework. On the contrary, as already emphasised, this innovative concept aims to highlight the lack of consideration that cities, in fact, deserve due to their importance in the contemporary age (Carloni and Piñeiro, 2015).

Indeed, urban areas are typically associated with local entities that hold administrative roles. Given the challenges cities face, the formal recognition granted by laws raises questions about its sufficiency (Pizzolato, 2024). Actually, what has been defined as a «limited administrative local governance authority» (Hirschl, 2022, p. 457) prompts questions about whether the lowest level of the national power structure (De Visser *et al.*, 2021) can implement appropriate measures and regulations.

The Italian legal order may represent a good example of this issue. Therefore, by briefly analysing the actual status granted within the Italian institutional framework and relating it to the issue that must be governed, it will be possible to draw some preliminary conclusions on the research question of the paper.

The core principle of this matter is outlined in Article 5 of the Constitution, which, by stating that the Republic «recognize and promote local autonomies», enshrines the principle of autonomy within the Italian institutional framework. This is a vital norm for several reasons. Firstly, it plays a significant role in democratising the structure of the State (Carloni and Cortese, 2020). Recognising that public power can be exercised by institutional bodies beyond the State helps prevent its excessive concentration through effective distribution. Likewise, affirming the autonomy of decentralised authorities gives tangible substance to the fragmentation of power. Without such recognition, the status of each entity would remain ambiguous, and power could be exercised uniformly everywhere, eroding diversity in governance.

Furthermore, a textual analysis of Article 5's provision reveals a key element for this work: the clause not only promotes local autonomies but also recognises them, indicating that these territorial entities predate the nation. This is noteworthy because it reaffirms that the state-

centric view – on one hand – and the modern structure of the State – on the other – are historically determined (Blanco, 2019), and not ontologically necessary.

Indeed, if the principle of autonomy, just mentioned, implies a margin of self-government and self-regulation, it must also be exercised within the framework established at the national level. This, however, highlights the difference between the notion of autonomy, which has a relational dimension, and that of sovereignty, which, conversely, «describes a state's right to exercise supreme authority within its territory» (Philpott, 2020, cit. in Tiedeke, 2023). Indeed, while sovereignty implies that no other power exists over the State, the concept of autonomy involves an interaction between two entities in which one, while maintaining some room for manoeuvre, operates within the boundaries set by the other.

Furthermore, Article 5 serves as a pivotal reference for interpreting other crucial provisions that outline the polycentric configuration of the Italian State. One of these is Article 114 of the Constitution, which enumerates the entities that constitute the Republic, namely, Municipalities, Provinces, Metropolitan Cities, Regions and States. These, except for the State, are «autonomous entities with their own statutes, powers and functions» (article 114, par. 2 Const.). From that list emerges the question about the relation among them.

While the text may suggest a state of equality, there is debate within the legal doctrine on this point. Some support the idea that the lexical choice indicates a structural arrangement based on equal cooperation among the entities of the Republic (Carrozza, 2002). However, others underline certain obstacles to such a reconstruction. Initially, a very literal interpretation suggests that the principle of autonomy, recognised in Article 114, paragraph 2, does not also apply to the State itself; instead, it serves as a safeguard, aimed at protecting the 'minor entities' that might otherwise face interference from the hierarchically superior entity. An additional factor supporting the hierarchical approach is the State's exclusive right to amend the constitution; moreover, the allocation of specific functions leads to a differentiation in the very organisation of the entities. In this context, it is pertinent to recall judgment no. 273/2004, in which the Constitutional Court stated, «Article 114 of the Constitution does not imply, in any way, a complete equivalence among the entities it mentions, which possess profoundly different powers: it is sufficient to consider that only the State holds the power of

constitutional revision, while the Municipalities, Metropolitan Cities, and Provinces (excluding the autonomous ones) do not have legislative authority» (Constitutional Court, Sent. n. 273/2004). This point stands out as one of the most significant and interesting in distinguishing the role of local entities from that of the national level in our context.

At this level, it is crucial to consider Article 117 of the Constitution, which establishes that legislative power is vested in the State and the Regions. Paragraph 6 recognises Municipalities, Provinces, and Metropolitan Cities as having merely regulatory powers. However, this prerogative is limited to specific matters, namely, the organisation and exercise of the functions entrusted to them. Thus, as noted by doctrine, the constitutional disposition provides a normative autonomy of infra-regional entities based on the equation between the exercise of administrative functions and the power to regulate the functions (Demuro, 2000), not the matters, as stressed (Camerlengo, 2004).

Regarding administrative functions, Article 118 states that they are primarily assigned to Municipalities, and only when necessary, to larger entities such as Provinces and Metropolitan Cities, to ensure a unified exercise of this authority. More in-depth, Article 118, together with Article 3, paragraph 5 of D.Lgs. 267/2000, specifies that Municipalities and Provinces hold their own functions as well as those conferred upon them by State and Regional law. These categories have sparked considerable debate about their specific meaning (Falcon, 2002). Although this is undoubtedly a highly significant aspect for understanding the role of these local authorities, the present discussion aims to emphasise what is laid down in paragraph 4 of Article 3. It reaffirms that municipalities and provinces enjoy statutory, normative, organisational, and administrative autonomy, as well as fiscal and financial independence, within the framework of their own statutes and regulations and the laws governing public finance. The scope thus outlined allows for an understanding of the limited extent of municipal action, which operates – albeit within the margins of discretion guaranteed by the principle of autonomy – within limits established by the State.

What was briefly considered here has determined that municipalities are considered the lowest rung (De Visser *et al.*, 2021) of the legal order or as minor entities (Bobbio, 2002).

One last aspect that merits mention in this work concerns, once again, the distribution of

power previously discussed. One of the sectors in which the State holds exclusive legislative competence is the one declared by the letter. m), par. 2 of article 117 of the Constitution. According to this provision, only the national legislator can enact laws defining the essential levels of services related to civil and social rights that must be guaranteed throughout the entire territory. This provision is significant because it establishes the principle that the State has exclusive authority over recognising and defining such rights, while territorial entities are responsible for implementing and ensuring compliance with the limits set at the national level. If, from a literal perspective, it concerns only the definition of the services, it also implies that, in the absence of national norms, the rights themselves risk not being effectively guaranteed. This is precisely the case about the right to housing, which, although not explicitly listed among the constitutionally guaranteed rights, has nonetheless been recognised at the judicial level. As will be emphasised in the following paragraphs, the need to secure these rights at the urban level is becoming increasingly urgent. However, on one hand, at the national level, legislation that defines the essential level of service in housing matters has never been enacted; on the other hand, cities (namely municipalities and other local authorities), which are most directly involved in addressing this issue, lack the proper legal tools.

This highlights that cities are increasingly linked to rights considered fundamental. As noted in the following paragraph, due to the inherent nature of these rights, this phenomenon may highlight the need for a shift in the role of cities within legal systems.

3. Fundamental rights and cities: the emergence of a meaningful nexus

Cities reveal themselves as spaces where market forces exploit and benefit from the vitality offered by the urban environment, while simultaneously influencing governance to maintain their attractiveness and appeal to capital. The pursuit of efficiency and competitiveness is relentless (Carloni and Piñeiro, 2015). Such an approach, it is argued, reduces the social and political body to a mere economic space. It seems clear that this framework is incompatible

with the protection and promotion of individual rights (Pizzolato, 2022). This tension, which becomes especially acute in cities – entities that are not only social realities but also political and legal ones – inevitably challenges the institutions and prerogatives entrusted to these levels of government, prompting an assessment of whether they are sufficient to meet the challenges of contemporary times (Pizzolato, 2024).

However, while urban contexts can be understood as spaces of inequality, at the same time here such disparities can be exposed and problematized. Indeed, the diffusion of social injustice within urban settings cannot remain silent; rather, the dynamic socio-political environment brings these inequalities to the fore, making them visible and subject to public scrutiny. In other words, cities, as hubs of activation and democratic participation, are not passive places but vital arenas that can turn social conflicts into political proposals.

This is precisely what is happening in relation to fundamental rights. In the face of alleged violations, demands and proposals often emerge that lead to envisioning a different role for cities than that typically attributed to them as minor entities (e.g., Philippopoulos-Mihalopoulos, 2007).

In this context, the link between cities and fundamental rights began to emerge in two significant ways: firstly, through the invocation, at the local level, of rights derived from international and supranational sources; secondly, through the assertion by urban areas of specific prerogatives, not yet recognised within legally binding sources, but emphasised as vital issues for the quality of life in cities.

The first case involves the so-called human rights cities (Oomen, Davis and Grigolo, 2016; Tieghi, 2019; Reuter, 2019; Oberleitner and Starl, 2020). This concept has gained traction over recent decades to describe approaches to local governance that prioritise respect and protection of human rights (or fundamental rights). Through this approach, categories typically associated with the national level (constitutional rights), the supranational level (fundamental rights), or the international level (human rights) are localised. An interesting example of this is the *European Charter for the Safeguarding of Human Rights in the City*, adopted within the framework of *United Cities and Local Government* (UCLG). As stated by the promoters, this soft law instrument has aimed to provide a distinctive framework for

understanding and promoting human rights at the local level (UCLG, 2011). The list of rights included in the Charter echoes the catalogues provided by traditional international law sources. For example, Article 11 affirms the Freedom of expression and of information, and Article 12 affirms the freedom of reunion and association. At the same time, it is essential to emphasise that the Charter also confers new fundamental prerogatives, not previously included in traditional charters, specifically designed for the urban context. Examples of this typology are the right to leisure, recognised in Article XXI, according to which «the cities recognise the right of citizens to leisure time» (par. 1) and «the local authorities guarantee quality leisure spaces for all children without discrimination»; and the Right to Harmonious City Development, provided by article XIX, pursuant to which «the citizens have a right to an ordered town planning development» to guarantee an harmonious relationship between residential areas, public services, amenities, and green areas.

Equally emblematic is the case of the right to housing, which is also listed in the aforementioned Charter. While it can hardly be denied that this right (Scotti, 2015), as instrumental to life and human dignity, must be respected and guaranteed throughout the national territory, it is equally undeniable that urban contexts are particularly exposed to violations of the same. This issue has also been recently recognised by the Council of the State, which stated that the historic centres of big cities are «at risk of depletion due to human pressure affecting the quality of life» (State Council, Sect. V., Sentence, 25/08/2025, n. 7100). It is no coincidence, therefore, that the strongest pressures for legislative reforms aimed at guaranteeing broader and safer access to housing increasingly originate from cities: consider, on the social front, the demonstrations by university students who, under the symbol of the tent, protested in front of their campuses against the lack of affordable housing; at the same time, on the institutional front, it was precisely thanks to the pressure of mayors and local authorities that, in 2025, the European Commission established a dedicated task force on this issue. In connection with the growing recognition of the problem, at the level of the European Union, the European Economic and Social Committee has highlighted the need to revise the EU legislation on State aid, since the latter, as interpreted by the Court of Justice, has acted as an obstacle to investment in public housing (Comitato Economico e Sociale Europeo,

2025).

The municipalities' involvement in this issue is quite essential.

The city of Bologna provides a noteworthy example, as the local government actively aims to address the shortage of affordable housing within its borders. The challenge stems from a limited supply of public housing and the lack of infrastructure caused by the short-term rental trend. Nonetheless, the municipality sought to confront the issue by adopting an amendment to the urban planning scheme, which introduced a new land-use category for residential units (B3). This provision enables the Municipality to exert greater control over the distribution of housing and the balance between structures designated for tourism and those for permanent residence. However, as this measure could be viewed as a restriction on economic freedom, it was challenged. The Regional Administrative Tribunal (TAR) of Emilia-Romagna dismissed three appeals against Bologna's urban planning amendment, thereby affirming the legality of the new land-use category B3 for short-term rental apartments. The judges upheld the Municipality's position that the proliferation of short-term tourist rentals significantly affects the urban fabric and local service provision, justifying regulatory intervention through planning and building tools. They ruled that such measures fall within the Municipality's territorial governance powers and do not breach civil law or the freedom of economic initiative. The B3 classification, along with the imposed dimensional standards and other regulatory measures, was deemed reasonable and proportionate, striking a balance between economic interests and broader social goals, such as ensuring access to housing for students and non-residents. Although, according to the recent decision of the Administrative Tribunal of Emilia-Romagna, Bologna's municipality appears to have the authority to intervene, it is not yet a definitive matter, as the stakeholder categories have announced new appeals.

The conflict here is between two fundamental rights: property and economic initiative, on the one hand, and the right to housing, on the other. Therefore, the question remains: does the local authority have the power to intervene, and if it is trying to govern these problems, find a balance, and provide limits to constitutional rights, could this mean a new role for cities and municipalities?

4. The relevance of the nexus between fundamental rights and cities, and some primary conclusions

To contribute to the body of research investigating the role of cities within contemporary institutional frameworks, this work is guided by the idea that the emerging relationship between urban contexts and fundamental rights could indicate a shift in the role that cities occupy within the legal order. This hypothesis is founded on the firm belief that referencing this peculiar class of rights cannot be considered neutral, given its distinct and unique nature.

Indeed, fundamental rights are a category that originated, developed, and has traditionally been linked to state power. In fact, it is an inherent relationship, as the very first moment when people began to speak of fundamental rights and the duties of states coincides with the origin phase of the nation-states themselves – that is, from the Peace of Westphalia onward (Carbone and Schiano di Pepe, 2009). Indeed, from that moment onward – along a progressive movement that reached its peak in the aftermath of the Second World War – the relationship between fundamental rights and the state grew increasingly stronger, also in the sense of legitimising the state itself. With the advent of constitutionalism, moreover, a period of even deeper identification began. As noted by authoritative scholars, the codification in rigid written sources (the constitutions) of the principle that public authorities must respect rights deemed fundamental brought about a radical change. Such an approach, in fact, has both the intention and the effect of identifying a purposive framework within which to situate the action of institutions – and therefore of politics – as well as of the other forces operating within a legal order. This has meant, in other words, as Ferrajoli observes, reshaping the relationship between law (or rather, rights) and politics in a new way, in which the latter becomes subordinate to the former (Ferrajoli, 2016). Thus, according to the mentioned author, the category of fundamental rights has the capacity to give the democratic system a substantive – not merely procedural – character, orienting its action. This opinion is also perfectly coherent with the consideration of those who claim that fundamental rights represent

the supporting structures of a legal system – constitutive elements that reflect its priorities and regulate its functioning (Costa, 2008).

Particularly interesting for this work is the idea expressed by the doctrine, which, reflecting on the impact of globalisation on law, identifies the core nature of constitutional norms in the fact that they pose limits to power (Ronchetti, 2007). More precisely, according to Ronchetti, the recognition of rights and corresponding duties implies an essential fragmentation of power that allows a legal order to be considered constitutional. In this context the Author speaks about fundamental rights observing that they «draw their strength from the recognition of plurality, of the multiplicity of others with whom they enter into relations and interactions, because it is only in the encounter with others that our hypothetical power is transformed into mere possibility, in the awareness that each individual is limited by the very existence of others» (Ronchetti, 2007, p. 225). The author's reasoning aligns with a broader reflection in which she argues that the processes of deterritorialization underlying the phenomenon of globalisation have, as their most significant impact, the breaking down of boundaries – thereby undermining the very idea of setting limits and, consequently, constitutionalism itself. In this sense, Ronchetti claims that «the phenomena of deterritorialization and the crisis of Constitutions and the rights they enshrine are processes united by the progressive loss of the sense of limit» (Ronchetti, 2007, p. 243). At the same time, it is precisely within territories that legal scholars see a possible source of hope for giving new strength to the constitutional system, on the grounds that «geographical boundaries, in fact, serve as a safeguard against the perennial temptation to exceed one's own limits» (Ronchetti, 2007, p. 244).

Given the contextualised role of fundamental rights from an institutional perspective, it might seem clear that their localisation should signal the mentioned shift regarding cities. It is not only a matter of concretisation in the everyday context, but also one of shaping a new institutional cardinal point. Claiming that human rights must be promoted and guaranteed within cities from one point of view could be superfluous. Cities, like any other public entity, are bound by the Constitution to respect fundamental rights. However, it is precisely this apparent superfluity that should prompt us to reflect on the meaning of such a reference.

Thus, by reconstructing the foundation of fundamental rights (Ferrajoli, 2016) within a

legal system, it is believed possible to arrive at the following, entirely preliminary and non-definitive, observations.

The reassessment of law, people, and autonomy induced by the decentralisation of human rights becomes necessary in light of the serious challenges that cities must confront amid a context characterised by the globalisation of the economy, urbanisation, and digitalisation. Indeed, all these phenomena are exerting a profoundly negative impact on urban areas, raising questions about the response of public authorities. Consequently, in the view of the current author, involving cities in the network of responsibilities concerning fundamental rights necessitates a rethinking of the traditional view of municipal entities within a constitutional framework. Building on these points, it can be argued that the need to localise fundamental rights arises not only from a material necessity, which is already quite significant (as shown by the housing issue), but also from the requirement to equip urban governance with categories capable of restoring a balance between the (partly new) forces operating within the urban fabric, according to a hierarchy of priorities in which the rights of those living and inhabiting the territory take precedence over political-economic forces. This entails recognising cities not only as «the quintessential locus of a porous legality, where levels and layers of normative orders intersect thanks to greater proximity and the absence of filters with the social element» (Nitrato Izzo, 2017, p. 150), but also as spaces of constitutional importance.

Reference List

- Berman H.J. (1998). *Diritto e rivoluzione. Le origini della tradizione giuridica occidentale*. Bologna: il Mulino.
- Blanco L. (2019). Stato, amministrazione, territorio: note sulla “modernità”. *Semestrale di Studi e Ricerche di Geografia*, XXXI, 2. DOI: 10.13133/1125-5218.15716.
- Bobbio L. (2002). *I governi locali nelle democrazie contemporanee*. Roma-Bari: Laterza.
- Camerlengo Q. (2004). Art. 5. In Cavalieri P., Lamarque E., eds., *L'attuazione del nuovo*

Titolo V, parte seconda della Costituzione. Torino: Giappichelli.

- Carbone S.M., Schiano di Pepe L. (2009). States, Fundamental Rights and Duties. *Max Planck Encyclopedia of International Law*. Retrieved from <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1112> (13/03/2026).
- Carloni E., Piñeiro M.V. (2015). Le città intelligenti e l'Europa. Tendenze di fondo e nuove strategie di sviluppo. *Le istituzioni del federalismo*, 4: 865.
- Carloni E. (2016). Città intelligenti e Agenda Urbana: le città del futuro, il futuro delle città. *Munus*, 2: 235.
- Carloni E., Cortese F. (2020). *Diritto delle autonomie territoriali*. Milano: Wolters Kluwer.
- Carrozza P. (2002). Appunti sui nuovi statuti regionali e il loro possibile contenuto. *Cooperazione mediterranea*, 2: 34.
- Castells M. (2008). The new public sphere: Global civil society, communication networks, and global governance. *The Annals of the American Academy of Political and Social Science*, 616, 1: 78. DOI: 10.1177/0002716207311877.
- Comitato economico e sociale europeo (2025). *PARERE. Alloggi a prezzi accessibili: politica di coesione, agenda urbana e società civile, ECO/663*. Retrieved from: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/affordable-housing-cohesion-policy-urban-agenda-and-civil-society#:~:text=supports%20the%20adoption%20of%20a,Pact%20and%20the%20European%20Semester> (13/03/2026).
- Costa P. (2008). Diritti fondamentali (storia dei). *Enciclopedia del diritto*, II, 2: 365
- De Donno M. (2024). Oltre i confini e i territori: lo spazio giuridico delle autonomie locali. *Diritto pubblico*, 30, 1: 163. DOI: 10.1438/113597.
- De Visser M., Ballin E.H., van der Schyff G., Stremmer M. (2021). Introduction: The City as a Multifaceted and Dynamic Constitutional Entity. In De Visser M., Ballin E.H., van der Schyff G., Stremmer M., *European Yearbook of Constitutional Law. The City in Constitutional Law*. Berlin: Springer. DOI: 10.1007/978-94-6265-431-0.
- Falcon G. (2002). Funzioni amministrative ed enti locali nei nuovi artt. 118 e 117 della

- Costituzione. *Le regioni*, 30, 2-3: 383. DOI: 10.1443/5668.
- Federici S. (2020). *Calibano e la Strega*. Milano-Udine: Mimesis.
- Ferrajoli L. (2016). Diritti fondamentali e democrazia costituzionale. *Revista do Instituto Brasileiro de Direitos Humanos*, 16.
- Frug G. (1980). The city as a legal concept. *Harvard Law Review*, 93, 6: 1057. DOI: 10.2307/1340702.
- Giansante M., ed. (2007). Traduzione dei prologhi del Liber Paradisus. *Archivio di Stato di Bologna*.
- Gregotti V. (2010). Città globali. *Enciclopedia Treccani online*. Retrieved from: [https://www.treccani.it/enciclopedia/citta-globali_\(XXI-Secolo\)](https://www.treccani.it/enciclopedia/citta-globali_(XXI-Secolo)) (13/03/2026).
- Hirschl R. (2022). The “Era of the City” as an Emerging Challenge to Liberal Constitutional Democracy. *Ethics & International Affairs*, 36, 4: 455. DOI: 10.1017/S0892679422000478.
- Jessop B. (2017). The Future of the State in an Era of Globalization, in Lerch M. (eds), *Challenges of Globalization*, New York: Routledge. DOI: 10.4324/9781315081618-2.
- Nitrato Izzo V. (2017). *Gli spazi giuridici della città contemporanea. Rappresentazioni e pratiche*. Napoli: Editoriale Scientifica.
- Oberleitner G., Starl K. (2020). Understanding human rights at the local level. In *A Research Agenda for Human Rights*. Cheltenham: Edward Elgar Publishing. DOI: 10.4337/9781788973083.00016.
- Oomen B., Davis M.F., Grigolo M., eds. (2016). *Global Urban Justice. The Rise of Human Rights Cities*, Cambridge: Cambridge University Press. DOI: 10.1017/CBO9781316544792.
- Philippopoulos-Mihalopoulos A. (2007). In the Lawscape. In Philippopoulos-Mihalopoulos A. ed., *Law and the city*. London: Routledge-Cavendish. DOI: 10.4324/9780203945155.
- Philpott D. (2020). Sovereignty. In Zalta E.N., ed., *The Stanford Encyclopedia of Philosophy*. Stanford: Metaphysics Research Lab, Stanford University. Retrieved from: <https://plato.stanford.edu/archives/fall2020/entries/sovereignty> (13/03/2026).
- Pizzolato F. (2022). Città e diritti fondamentali: le ambivalenze della politicità dei diritti.

Istituzioni del federalismo, 1: 155.

- Pizzolato F. (2024), Rilevanza e funzione costituzionale delle città al tempo della post-democrazia. *Nomos*, 3: 1.
- Reuter T.K. (2019). Human rights and the city: Including marginalised communities in urban development and smart cities. *Journal of Human Rights*, 18, 4: 382. DOI: 10.1080/14754835.2019.1629887.
- Ronchetti L. (2007). *Il nomos infranto: globalizzazione e Costituzioni*. Napoli: Jovene.
- Scotti G. (2015). Il diritto alla casa tra la Costituzione e le Corti. *Forum di Quaderni Costituzionali Rassegna*, 9: 17. Retrieved from: <https://www.forumcostituzionale.it/wordpress/wp-content/uploads/2015/10/scotti.pdf> (29/03/2026).
- Smart A., Smart J. (2003). Urbanisation and the global perspective. *Annual Review of Anthropology*, 32, 1: 263. DOI: 10.1146/annurev.anthro.32.061002.093445.
- Tiedeke A.S. (2023). State Sovereignty and States' Rights, *Max Planck Encyclopedia of Comparative Constitutional Law* [MPECCoL].
- Tieghi G. (2019). Diritti umani e tutela glocal. *Federalismi.it*. Focus Human Rights, 2: 1. Retrieved from: <https://www.federalismi.it/AppOpenFilePDF.cfm?artid=40401&dpath=document&dfile=03102019234720.pdf> (29/03/2026).
- UCLG - United Cities and Local Governments (2011). *European Charter for the Safeguarding of Human Rights in the City*. Retrieved from: <https://www.uclg-cisd.org/en/documents/european-charter-safeguarding-human-rights-city-2001> (13/03/2026)
- Zorzi A. (2020). Le declinazioni della libertà nelle città comunali e signorili italiane (secoli XII-XIV). In Zorzi A. ed., *La libertà nelle città comunali e signorili italiane*. Viella: Roma. DOI: 10.23744/3785.