

# Taking the Right to the City Forward: Obstacles and Promises

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## Introduction

The phenomenon of urbanisation continues to accelerate at a rapid rate both with the movement of millions of people to urban areas and with the absorption of peri-urban and rural areas into the ambit of cities.<sup>1</sup> As urbanisation transforms the world, and as cities change, adapt, and grow, so do the challenges.

The *city* of today, unfortunately, does not recognise everyone equally. Neither does it make available its services, benefits or opportunities to all. The most marginalised and the poorest are the ones that suffer the most. The onset of economic globalisation and the institutionalisation of neo-liberal policies, including through privatisation of civic services, has led to deepening inequalities of income and opportunity between and within nations and cities. This in turn has led to an increase in the number of people forced to live in inadequate and insecure housing and living conditions and with very unstable livelihood options.

Cities across the world have become spaces marked by urban inequality and growing ‘ghettoisation’ and segregation. More and more projects (gated communities, malls, entertainment complexes) have created clear demarcation between ‘rich’ and ‘poor’ areas. In the same cities we find sprawling slums with little access to essential civic services, especially water, electricity and sanitation. The poor continue to be forcibly evicted from their homes to make way for neighbourhoods/regions of cities that have become playgrounds for the rich.

Along with these types of spatial changes a range of ‘social control’ laws and policies have been put in place that effectively criminalise and stigmatise the poor with an adverse impact on their human rights. Many of these policies reflect both a deep-set discrimination and ‘racism’ in societies against the poor and a false and unsubstantiated feeling of being ‘threatened’ by them. Amongst the poor those severely affected by these policies are the homeless, the destitute and particular groups such as nomads and migrants.

This paper on “Taking the Right to the City Forward: Promises and Obstacles” will outline the causes for the urbanisation ‘crisis’; the consequences of city policies; and their impacts on human rights. The paper uses the existing reality in cities to argue for the need for a broad-based, holistic and encompassing *right to the city* as a human rights response. The paper expands the notion of the right to the city, and ends with some suggestions for city and national governments on providing solutions, including offering assistance to those actors attempting to counter the negative dimensions of urbanisation, through the use of the right to the city as a human rights-based mobilising tool on the ground.

## The Urbanisation ‘Crisis’

The global urbanisation crisis is a consequence of numerous interrelated policy, legal and administrative actions involving local and national authorities and institutions and the private sector. Deliberate actions governed primarily by a neo-liberal paradigm of growth and property accumulation, have led to the creation of conditions in cities that comprise any humanistic notion of the right to the city for all.

These actions include:

### 1. *Inequitable Planning Policies*

The process of city ‘Master Planning’ has been used to capture land and provide infrastructure such that changes in land use patterns favour gentrification of entire areas in cities. Such processes of gentrification trigger massive displacement in order to make room for highways, skyscrapers, luxury complexes, shopping malls, at the expense of habitats and livelihoods of the poor. This is evident across the world. The bulldozing of the vibrant slums of Maroko, Lagos, led to the displacement of 300,000 dwellers; the Mugabe-led

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<sup>1</sup> Latin America is the world’s most urbanised region where more than 75% of the population live in cities; in the Middle East and the European West, two-thirds of the population are city-dwellers; in Africa growth of the cities is associated with an increase in urban poverty; and Asia, notwithstanding the fact that 60% of the population now live in rural areas, is the region where urban transition is most rapid.

destruction of Harare and Bulawayo (with the disturbingly-named Operation Murambasvina, i.e. ‘drive out trash’) entailed extensive arrests, killing, ransacking, and the dislocation of more than 700,000 people; Shanghai’s 1991-1997 ‘gentrification’ led to the relocation of 1.5 million people; and Rangoon’s tourism-oriented remaking also displaced 1.5 million.

The failure of planning policies to provide adequate low cost housing options in cities drives millions to live in inadequate and insecure conditions, often without basic services and in precarious locales with grave threats to their health and security. The state’s failure to provide security of tenure; cutback of funds for social housing; the absence of reservation of land for housing for low income groups; and the inability to intervene in the market to control land and property speculation, act to further exacerbate the housing crisis. Furthermore, policies aimed at ‘urban renewal’ and ‘city beautification’ are resulting in the demolition of homes and relocation of thousands to areas far removed from livelihood opportunities, contributing to further impoverishment. This has led to the burgeoning of slums and inadequately serviced informal settlements, including pockets of severe poverty, in cities across the world. Such processes of dispossession and housing stress also fuel the rise of homelessness, as entire families, with no options for housing, find themselves forced to live on the streets. The negative impacts of such housing and living conditions are most severely felt by women.

## 2. *Housing Townships and Projects/Gated Communities*

A particularly divisive aspect of recent patterns of urbanisation has been the rapid rise in the development of housing townships and projects as gated communities. This has led to large tracts of land and civic services being denied to lower income residents of cities.

In Shanghai, Pow<sup>2</sup> highlights the moral order underpinning the erection of gated communities, which represent the move to create ‘civilised’ communities away from the uncivilised and stigmatised underclass of rural immigrants. Caldeira<sup>3</sup> in her compelling analysis of Sao Paulo’s gated communities notes that once the upper class withdraws into enclaves, an inevitable contraposition between a safe and familiar *inside* and a threatening and unknown *outside* surfaces. Perhaps nowhere is this tendency more extreme than in Dubai, a *de facto* vast gated community founded on overarching commercial interests and built according to its global image, in order to attract ‘upper classes’ from all over the world. Behind the facade of luxury lies the fate of thousands of Filipino, Indian and Pakistani immigrants unable to gain citizenship (and related rights) and *de facto* forced to live in camps on the periphery in extremely precarious conditions, working draconian hours, and experiencing totalitarian social control.

In South Africa, the gated-community phenomenon is deemed as the continuation of *apartheid geography*, to the extent that urban analysts speak of a *new apartheid* as an added dimension of separation which “imitate[s] apartheid’s geography of exclusion rather than post-apartheid goals of urban integration and inclusion.”<sup>4</sup>

By contributing to spatial segregation, gated communities also result in social and economic segregation. This can further lead to social exclusion, creating a barrier to interaction among people of different ethnic groups, races, religions, cultures and classes, thereby inhibiting the construction of social networks that form the basis of social and economic activities.<sup>5</sup> It also often gives rise to practical problems regarding efficient urban management and functioning. Enclosed neighbourhoods impact the daily activity patterns of people, as well as functioning of the city. There have been cases in Johannesburg and Pretoria, South Africa, where public facilities such as schools, libraries, parks and postal facilities have been enclosed, forcing non-

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<sup>2</sup> Pow Choon-Piew (2007), Securing the ‘Civilised’ Enclaves: Gated Communities and the Moral Geographies of Exclusion in (Post-)socialist Shanghai. *Urban Studies*, Vol. 44, No. 8, 1539–1558.

<sup>3</sup> Caldeira, T. (2001), *City of Walls: Crime, Segregation, and Citizenship in Sao Paulo*, Berkeley, CA: University of California Press.

<sup>4</sup> Lemanski C. (2004), “A New Apartheid? The Spatial Implications of Crime in Cape Town, South Africa,” *Environment and Urbanisation* 16(2) 101-112.

<sup>5</sup> Landman, K, & Schönsteich, M, ‘Urban Fortresses,’ *African Security Review* Vol 11 No 4, 2002. Available at: <http://www.iss.co.za/Pubs/ASR/11No4/Landman.html>.

residents to negotiate controlled access points when they wish to make use of these facilities as part of their daily activities.

Such policies of exclusion lead to a direct violation of the human rights to equality, security, and freedom of movement, assembly and residence, and affect the poor and working classes the most.

### **3. Large Infrastructure Projects and Events**

In addition to processes of gentrification in cities, a number of other large projects and events have created cityscapes that the poor cannot benefit from. These have included large infrastructure projects (water, sanitation, roads), including 'city beautification' and riverfront development schemes.

Some of these large infrastructure projects have also been built to facilitate the hosting of regional or international events.

- *Cultural Mega-events*

The bulldozing of squatters' homes in Seville is merely one example of the downside of the desire to improve a nation's image through an event such as the World Expo. The city of Shanghai faced transformation in preparation for its hosting of the 2010 World Expo, affecting thousands of people. A boom in construction in the city has led to the displacement and eviction of many: 18,000 families have been evicted from the Expo site alone. However, this figure is only a small portion of the 400,000 people who will be moved to the suburbs as part of a comprehensive urban development scheme that includes the Expo, large infrastructural development, and market-rate commercial and residential development.

- *Political Mega-events*

Large international political events also have negative consequences for many local residents. One event of particular note is the IMF/World Bank Conference. Thirty years ago in Manila, the 1976 IMF/World Bank Conference was precipitated by the eviction of 400 families from a slum as part of an urban renewal project. Forced evictions formed part of the city's beautification campaign in preparation for the conference. Nine years later, in Seoul, South Korea, preparations for the 1985 IMF/World Bank Conference included bulldozers and police tearing down a slum located between a luxury hotel and the corporate headquarters of Daewoo Corporation, the two principal venues for the conference. One thousand two hundred slum families were evicted from the site. It is reported that the head of each household received between only USD 350 and USD 750 as compensation for the loss of their homes.

- *Sporting Mega-events*

Sporting events such as the Olympics, World Cup, Commonwealth Games, and other regional events, often facilitate policies of discrimination and inequality.

Displacement due to the Olympic Games affected 720,000 people in Seoul and 350,000 in Beijing. Preparations for the New Delhi Commonwealth Games 2010 and Vancouver Winter Olympics 2010 have resulted in the forced eviction of thousands of people living in slums and informal settlements to make way for infrastructural development.

'Clean-up' programmes associated with World Cup events have led to the displacement of homeless people; for example, nearly 300 homeless were removed from an area surrounding the Nagai Stadium in Osaka, Japan, in 2002. In Seoul, the co-host city for the 2002 World Cup, city officials created a list of areas that were off-limits for the homeless. Fears have also been expressed regarding the impact that preparations for the 2010 World Cup in South Africa will have on enjoyment of housing rights for many in South Africa.

Each of these mega-events leads to specific impacts. For example, attempts to improve urban infrastructure through redevelopment can lead to a decrease in public housing stock and an escalation of real estate prices, which makes housing unaffordable for many low income residents and other marginalised groups. The

desire to ‘show off’ a city and make it an attractive tourist destination is often accompanied by a process of sanitisation – ‘clean-up’ of public areas facilitated by criminalisation of the homeless and increased powers to the police. Rebuilding a city’s image appears, from the examples of many mega-events, to mean rebuilding a city to make it more attractive for the local, national and international elites (middle and high income earners), and as a result, less livable for those who fall outside these categories.<sup>6</sup>

#### 4. *Economic Globalisation*

Economic globalisation has led to fierce competition amongst cities for global investment and the lure of being portrayed as ‘world class’ cities. While rapid global economic investment continues to create new and unprecedented sources of wealth, offering the promise of dramatically reducing poverty, the fact remains that deepening inequalities of income and opportunity between and within nations has led to an increase in the number of people living in inadequate and insecure conditions without the rights to potable water, sanitation, and livelihood. Policies of economic globalization tend to impair the ability of states to provide adequate resources, services and other provisions that are often critical to the fulfilment of human rights. The continuing deterioration of conditions, particularly with respect to housing and related services, that confront the majority of urban and rural poor around the world begs, at the minimum, a re-examination of the presumptive arguments of trickle-down benefits and poverty reduction that continue to be used to justify policies of economic integration driven by the neo-liberal paradigm.

#### 5. *Privatisation of Civic Services*

Processes of increased economic integration have lent further momentum to an ongoing movement toward privatisation of basic civic and social services such as water, electricity and sanitation. This phenomenon, coupled with the inability of governments to provide citizens affordable access to human rights such as water, tends to have a disproportionately adverse impact on the poor, most vulnerable and socially marginalised segments of society. Privatisation of basic civic and social services, without the required regulations, warrants close scrutiny. By transforming a basic social service and scarce resources into an economic commodity, the world’s economic and policy planners are operating under the myopic macroeconomic assumption that existing resources can be managed and consumed efficiently in accordance with competitive market principles.

From a human rights perspective, three important lessons have emerged from critical evaluation of the privatisation of basic services:

- a) Privatisation, by its very nature, is increasingly forcing central and local authorities to become profit-seeking in the provision of essential services. Among ‘developing nations,’ where a significant proportion of the population lives in poverty, many groups cannot muster the provision of a sufficient or satisfactory market rate of return to the interested investor for services rendered through market mechanisms. Therefore, unless a portion of these costs is subsidised for these groups, as mandated under the general obligations of human rights instruments, they are likely to be forced to forgo their access to such services altogether.
- b) Private corporate entities place strong emphasis on profit generation and cost recovery. This cardinal principle of privatisation often has the effect of fragmenting service delivery and coverage. If not all citizens can afford to pay the full price for the new services, the project may become financially unsustainable.
- c) Private operators are accountable to share-holders and not to the public of the territories in which they operate. Of particular concern are the growing incidences of unethical practices by private providers and other institutions that aggressively push for increased privatisation. There is an acute

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<sup>6</sup> *Fair Play for Housing Rights*, COHRE, 2007. Available online at: <http://www.cohre.org/store/attachments/COHRE's%20Olympics%20Report.pdf>.

need to strengthen participatory monitoring mechanisms, as processes of privatisation are extremely difficult to reverse once implemented.<sup>7</sup>

## 6. *Property and Land Speculation, Land Grabbing, Misuse of the Power of Eminent Domain*

Spiralling land and property speculation across the world is contributing to the displacement of the poor from well-serviced areas of cities, and in making land, property and housing unaffordable for economically weaker sections. In addition, increased competition among cities to attract capital and business for generating employment and sources of tax revenues, has led to widening inequalities between cities, with consequent discrepancies in the level and quality of essential services provided to citizens.

The burgeoning trend among governments to invoke powers of 'eminent domain' in order to justify seizure of public and private property is also cause for alarm, and has grave implications on the human right to an adequate standard of living. The doctrine of eminent domain imparts sweeping and ill-defined powers to the state to seize land contingent upon a demonstration that confiscated properties will be used for the 'public purpose' or 'public good.' The inherently ambiguous nature of the 'public good' criteria for determining constitutional or legal consistency, however, leaves much room for the abuse of this power as a convenient state tool for furthering private interests.

The increasing takeover of land, especially agricultural land on the peripheries of cities, to expand urban development is resulting in the loss of livelihood for small farmers and peasants and their displacement. Such land grabbing further contributes to food insecurity and the violation of the human rights to adequate housing, land, food, and work.

## 7. *Laws and Administrative Policies*

The continued existence of discriminatory laws such as anti-vagrancy and anti-beggary laws, the use of criminal codes, anti-squatting laws, the misuse of anti-terrorist laws, new surveillance strategies, and the policies of zero-tolerance, act in conjunction to curtail the realisation of human rights within the city, while most severely impacting marginalised groups, many of whom, such as the homeless, are direct victims and targets of these laws.

Hungary, Italy, Sweden, Germany, Slovenia, Luxemburg are some of the countries in which both private and public security forces have been accused of deploying violence against and harassing the homeless. Cases of crude violence, rape and even murder have been observed recently in Slovenia, Spain and Czech Republic. Incidents of violence against the homeless have also been reported from India.

Most efforts of city governments tend to be oriented towards exclusionary measures with much less attention on integration. Usually, when provided, shelters for the homeless are situated on the outskirts of the city, in suburbs. This means relocating the homeless away from public places and city centres. This leads to social exclusion and segregation, adding territorial stigmatisation to discriminations already in place. More practically, the 'peripheralisation' of the homeless and poor in general, is highly damaging for them, as their social and most importantly, economic activities need to be performed in crowded central areas of the town.<sup>8</sup>

The problem is also one of unbalanced public budgets. For instance, in New York City, the police budget was raised by 40% in five years but in the same period, the budget for social services decreased by 34%.<sup>9</sup>

The direct forbiddance to search through rubbish (in force in many American cities and also proposed by the Mayor of Rome) or the indirect locking of waste-dumps, is a particularly cruel way to restrict individuals a basic source of food.

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<sup>7</sup> For a longer discussion on the negative implications for human rights of privatisation see: Miloon Kothari "Privatising Human Rights – the impact of globalisation on adequate housing, water and sanitation" in Social Watch Report 2003, available at : [http://www.socialwatch.org/en/informeImpreso/pdfs/privatisinghumanrights2003\\_eng.pdf](http://www.socialwatch.org/en/informeImpreso/pdfs/privatisinghumanrights2003_eng.pdf).

<sup>8</sup> FEANTSA (2006), *The Changing Role of the State. Homelessness and Exclusion: regulating public space*.

<sup>9</sup> Citizen's Budget Commission, Annual Report, October 1998.

In Canada, there has been a renewed effort to clamp down against ‘vagrants’ through ‘back door’ measures such as fingerprinting welfare recipients, devoting unprecedented resources to policing welfare fraud, the enactment of municipal by-laws, and on-the-ground policy shifts like introduction of ‘zero tolerance’ policing. The first of these by-laws was enacted in the city of Winnipeg, Manitoba in 1995, providing for a fine of USD 1000 or six-month jail term for offences of public begging.

Two Australian jurisdictions—Queensland and Western Australia—retain vagrancy laws. In most other jurisdictions, authorities have found different ways to criminalise homelessness. In 1999-2000, 2,640 people were arrested for vagrancy in Queensland, of which 282 were charged with begging and 15 with having no visible means of support. Eighty-three were jailed and a further 112 were fined, where defaulting carried an automatic jail sentence. Vagrancy can thus be seen as ‘a significant pathway’ into the prison system.<sup>10</sup>

In the United States, two reports by the National Coalition for the Homeless (NCH)<sup>11</sup> and the Conference of City Mayors<sup>12</sup> reveal that of the 224 cities surveyed for the NCH report, 43% prohibit begging in particular public places, 45% prohibit panhandling, and 21% have city-wide prohibitions on begging. The trend of criminalising homelessness appears to be growing. Findings from 67 cities reveal that there is a 12% increase in laws prohibiting begging in certain public places, an 18% increase in laws that prohibit aggressive panhandling; and a 3% increase in laws prohibiting loitering, loafing, or vagrancy laws.

Swiss courts have ruled that “begging is not a right” and that cantonal laws against it are allowable in the interests of public safety and “tranquillity.” As of April 2008, police have the authority to enforce on-the-spot fines directly from a beggar’s takings. Swiss law also provides for the deportation of foreigners without the means to support themselves.<sup>13</sup>

India’s *Bombay Prevention of Begging Act 1959* is routinely used to round up the homeless, even when they are gainfully employed.

The factors listed above all work to violate human rights within city spaces. Furthermore, they serve to make cities zones of exclusion, discrimination, and hostility.

The impacts of such actions and policies are most severely experienced by the most marginalised and vulnerable groups, including, *inter alia*, the poor; slum dwellers; migrants; nomads including Roma, religious, sexual and ethnic minorities; historically discriminated groups; persons with disabilities; persons living with mental illness and HIV/AIDS; indigenous peoples; sex workers; domestic workers; older persons; refugees; women, in particular single women, single mothers, women of minorities; and children, in particular street children.

The failure of urban planning to create well integrated and inclusionary spaces of growth and development of residents has created a situation where the city benefits only those who can afford to live in it.

The present nature of urbanisation and city life cannot continue on its destructive path. Concerted efforts at rethinking and reforming city spaces and planning processes have to be integrated to ensure that cities are truly accessible to everyone, and that they respect, protect and fulfil the human rights of all those living within their spaces without any discrimination.

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<sup>10</sup> Walsh, Tamara (2003), ‘Waltzing Matilda’ One Hundred Years Later: Interactions Between Homeless Persons and the Criminal Justice System in Queensland’, *Sydney Law Review* 25, 75-95.

<sup>11</sup> National Coalition for the Homeless (2004), ‘Illegal to be Homeless: The Criminalisation of Homelessness in the United States,’ at: <http://www.nationalhomeless.org/publications/crimreport2004/report.pdf>

<sup>12</sup> The United States Conference of Mayors (2008), ‘Hunger and Homelessness: A Status Report on Hunger and Homelessness in America’s Cities,’ available at:

[http://www.usmayors.org/pressreleases/documents/hungerhomelessnessreport\\_121208.pdf](http://www.usmayors.org/pressreleases/documents/hungerhomelessnessreport_121208.pdf)

<sup>13</sup> <http://genevalunch.com/2009/01/15/geneva-rounds-up-romanian-beggars-bern-hits-out-at-racists/>

## Need for a Strong Human Rights Response – Locating the Right to the City within the Human Rights Framework

The multiple violations of human rights that the above mentioned trends, policies, laws and practices result in, are unacceptable. They amount not just to an abrogation of countries' international and often national legal commitments, but also to a violation of their moral commitments to their people.

The adoption and implementation of a strong human rights based approach, therefore, is the only way to preserve and uphold the dignity of all residents of the city and to address the multiple violations and problems being faced by millions in cities across the world today.

The movement for the 'right to the city' has developed as a response of social groups and civil society organizations in an attempt to ensure better access to and opportunities for everyone living in cities, especially the most marginalised and deprived sections. Social movements and organizations from across the world worked together to develop a *World Charter on the Right to the City* that is also supported by UNESCO and UN Habitat, among other agencies. This global movement has also led to mayors in different cities, independently and collectively, adopting charters to promote human rights in cities.

The *right to the city* is not to be viewed as a new legalistic right, but merely as an articulation to consolidate the demand for the realisation of multiple human rights within city spaces. It is a means to combat the exclusionary development, selective benefit sharing, marginalisation and discrimination rampant in cities today.

The concept and implementation of the *right to the city* needs to be grounded in the basic human rights principles of: non-discrimination; indivisibility of human rights; gender equality; progressive realisation; non-retrogression, subsidiarity; solidarity; and cooperation. It emphasises priority attention to persons and groups in situation of vulnerability and also stresses responsibility and sustainability as core principles.

### Expanding the Right to the City and Taking it Forward

While the *World Charter on the Right to the City* is a comprehensive document and provides useful guidance and operating principles, there is a need to not just take it forward and make it a reality, but also to go beyond it to ensure the guarantee of all human rights to all those living and seeking to live in city spaces, with a special focus on marginalised and vulnerable groups.

The *right to the city* needs to encompass the ideals of an alternative, adequate, and ideal city. It is not merely the right to any city, especially not to a city the way we know it today but a city based on mutual respect, tolerance, democracy, social justice, and which incorporates the following principles:

#### 1) Indivisibility of Human Rights

The basic principle of the *right to city* is that human rights are interdependent and indivisible. This calls for the simultaneous realisation of all human rights for all residents of the city. This means that all human rights — civil, political, economic, social, cultural and environmental rights — must receive equal priority in city governance, planning, management, and implementation. The critical human rights that must be respected, protected and fulfilled include, *inter alia*, the rights to an adequate standard of living, including adequate housing (and basic services like sanitation and electricity); water; food; health; work/ livelihood; education; security of the person and home; liberty; equality; participation; information; land; environment, freedom from inhuman and degrading treatment and the freedom of movement, assembly, and residence. The *right to the city* should also encompass the rights to self determination, right to freedom of assembly and organization, and the right to development – social, political, cultural, spiritual, economic – both personally and collectively.

Important in the articulation and realisation of the *right to the city* is the recognition that the right is not just an individual right but also a collective right. This includes the right of groups to collectively own, access,



and benefit from resources, spaces, opportunities and services. It also encompasses the right to communal land and property as well as to public spaces.

Since human rights are interdependent and interrelated, it is important that cities are developed as spaces for mixed interaction and multiple uses. The critical links between housing, livelihood and health must be recognized to enable work places to be situated close to places of residence. Facilities for home-based work, especially for women should be provided. Schools, hospitals, and markets should also be located close to residential areas. Housing should not be situated in locations where residents face environmental, health and personal security risks.

## 2) **Non-discrimination and Inclusion**

Rights must be guaranteed to all those women, men, youth and children who choose to make the city their home – irrespective of their economic status, identity, caste, class, race, gender, religion, sexual affiliation, work, civil status, and irrespective of whether they are recognised as legal ‘inhabitants’ or ‘citizens.’

Social inclusion includes the right to be accepted and to be considered equal. It is also linked to the issue of identity and the feeling of belonging to a city. Everyone must have equal access, entitlement and enjoyment of the city’s services, spaces, and benefits as well as the collective enjoyment of culture.

Inclusivity also refers to the adoption of inclusive models of city planning and development, as well as the creation of mixed income and mixed class neighbourhoods to prevent social segregation, gentrification and social apartheid, and the increasing ‘ghettoization’ of city spaces being witnessed across the world.

The poor and homeless must not be criminalised and subjected to forms of abuse and violence by the state and its machinery. Anti-vagrancy and anti-beggary laws need to be abolished in order to recognise the contributions of the working poor to the city economy.

The principle of non-discrimination and the imperative of inclusion are immediate obligations and cannot be postponed by states claiming lack of resources or other constraints. This principle, therefore, needs to be seen as complementary with the principle of progressive realisation outlined below.

The *right to the city* must be defined as the right to an inclusive and gendered political, social, cultural and spiritual space.

## 3) **Priority to Vulnerable and Marginalised Groups**

The principle of non-discrimination also calls for special protection and priority to the rights of the most marginalised groups. These include the homeless, street children, persons with disabilities, persons belonging to historically discriminated groups, single women, victims of violence, domestic workers, migrant workers, sex workers, persons living with mental illness and HIV/AIDS, religious and sexual minorities, workers in the informal sector, internally displaced persons, refugees, and those living in precarious conditions. Within each of these groups, special attention must be given to children, women and older persons.

Special measures need to be taken to protect the rights of each of these groups. For instance, provisions need to be made for persons with disabilities – to enable their equal access to city spaces and participation in city life. This would involve making roads, sidewalks, housing, buildings, public spaces, and public toilets, accessible to all persons with disabilities. Affirmative action measures may also be required to promote the rights and interests of marginalised groups.

The *right to the city* must include a strong commitment to poverty reduction. This includes removing discriminatory provisions in laws and policies that go against the poor and economically weaker sections. Financial incentives, subsidies, credit, and priority housing to the homeless and those living in inadequate conditions must be provided.

#### **4) Gender Equality**

The right to the city has to be interpreted as the right to a gendered city that ensures the equal protection and realisation of women's human rights. City spaces are largely dominated by patriarchal relations in production and distribution. Cities must protect women's rights to privacy, security and freedom from violence. There is a need for strong initiatives developed in consultation with women to make cities safe, to ensure that women have equal access to both public and private spaces, public transport, streets, sidewalks, markets, parks, toilets (both public and private), workspaces, political spaces, and community spaces.

The rights of women to natural resources and livelihoods, including home-based work should also be protected within all city spaces. This includes access to shelters, safe spaces for homeless women and victims of domestic violence, and hostels for single mothers and working women. Women's participation in city planning and representation in governance is also critical towards promoting a balanced and equitable development of the city.

#### **5) Responsibility and Sustainability**

The *right to the city* confers certain responsibilities on city residents. These include applying checks and limits on use and consumption as well as assisting governments in facilitating rights.

The *right to the city* must recognise the interdependence of action and effects. It does not support the application of rights within a specific area where excessive use or misuse by one actor directly jeopardises the right / use/ benefits accrued to another. The principle of mutual responsibility and sustainability must be upheld, especially with regard to the environment and use of land, water, electricity, and other basic resources. There need to be enforceable checks and penalties on excessive use. This could include taxation of consumption of certain critical resources such as water and other energy resources beyond a certain level to enable minimal levels of consumption for all.

This principle also calls for the sustainable and responsible management of natural and ecological resources in the city, including energy, and its surroundings. The city must not grow at the cost of other cities and rural areas. The *right to the city* includes the right to live in a sustainable city, which protects the right to a healthy and safe environment. Given the threat of climate change and the rise in natural disasters, disaster mitigation, preparedness and response must be a component of city planning and development. When people have to be relocated in order to protect their life and health, their right to adequate resettlement must be respected and guaranteed.

#### **6) Participation and Consultation**

Effective, democratic and gendered participation in local decision-making and planning is critical to the realisation of human rights in a city. Adequate consultation with and participation from all sections of society is key to building inclusive and democratic city spaces. The principle of 'prior informed consent' must drive all planning and decision-making within a city. Local government agencies must not act without first consulting those who will be directly or indirectly affected by their actions. Reservations for women and marginalised groups must be made to ensure that they have equal negotiating powers and can ensure the inclusion of their concerns in city development.

The right to participation also includes the right to political participation in the city. All residents of the city should have the right to stand for office and to vote in democratic processes, including elections. The principle also includes participation in the equitable distribution of resources of and in the city. Governments must include civil society and social movements in the development and implementation of city plans.

#### **7) Social Function of the City and Property**

The city as a social unit and space must ensure that it meets the needs of all its residents. The principle of 'social function of property' should guide all land use planning to ensure that land is not diverted to meet the

interests of the rich at the expense of the poor. For example, shopping malls must not be allowed to come up on land reserved for public housing or public schools and hospitals. Social function of property also implies that there should be limits on the size of landholdings to promote equality in land ownership.

The *right to land* must also be recognized and upheld to ensure equality in ownership and use of city land and city spaces. This includes the right to collectively own and manage land and property. The right to land is also integrally linked to the provision of legal security of tenure over housing and land. This would ensure protection against forced evictions, check real estate speculation and land aggrandisement, enable sustainable development of settlements, promote collective agriculture and natural resource management, and prioritise social uses of land for purposes such as public housing and playgrounds.

Land laws and land use policies should also define 'public interest' to prevent the takeover of land for undemocratic purposes and should revoke the principle of 'eminent domain' since it is largely misused by states.

Special provisions, including subsidies, reservation of land and financial facilities for low cost housing, availability of credit and subsidised transport should be provided for economically weaker sections and the poor to ensure their equal access.

### **8) Recognition and Respect of Diversity in Economic, Social, Political, Spiritual and Cultural Life**

The city must recognise diversity in all its forms and promote a culture of tolerance and mutual respect. It must create conditions and opportunities which enable all individuals and groups to develop and realise their full potential. The *right to the city* also includes the right to leisure, recreation, and collective creativity.

### **9) Progressive Realisation**

States must commit to the long-term realisation of all human rights. They must commit to a consistent improvement in the realisation of human rights and the wellbeing of all. This means that at all times states must be able to demonstrate that they are taking steps to promote the adequate standard of living and improvement of living conditions, especially to uplift the conditions of all residents of cities who are currently living in inadequate conditions. Lack of resources cannot be used to justify the failure to implement human rights. Local and city governments must adopt this principle as a commitment to a sustained improvement in the standard of living for all city dwellers with benchmarks to monitor the progress in achieving human rights standards.

### **10) Non-retrogression**

States, including local city governments and municipalities, must not in any way regress on their human rights commitments, including progress already made in improving living conditions in cities. Measures achieved must not be roll-backed but progressively improved.

## **Need for a Sensitive Interpretation of the 'Right to the City'**

While articulating the principles encompassing the *right to the city*, it is also important to enumerate what the right to the city is not, in order to prevent its misinterpretation. Experience demonstrates that the way the *right to the city* is currently being implemented in most cities is not in keeping with human rights principles. This, in effect, is not the realisation of the right to the city but its negation.

The human rights approach defines the *right to the city*. Any violation of human rights amounts to a violation of the *right to the city*.

It is important to note that the *right to the city* is not about controlling capital for personal gain or about unchecked consumption and rampant growth of the market. Profit cannot be the driving principle of city development. The *right to the city* is also not about concentration of wealth and resources in the hands of a

few. In fact it clearly calls for the need to control markets and to install safeguards to prevent situations like the recent sub-prime housing crisis in the US. A city cannot claim to be committed to human rights if it promotes the commodification of rights such as water, and the privatisation of essential services. Private investment in areas such as housing and delivery of basic services has to be controlled if the *right to the city* is to be realised as a human right.

The *right to the city* also calls for holistic, balanced and multicultural development. This includes the creation of mixed neighbourhoods. It is not about promoting gated communities of the rich and the forced relocation of the poor to the fringes. Implementation of the *right to the city* must ensure that ‘city beautification’ and ‘urban renewal’ measures do not take place at the expense of the poor. The city’s working classes, the ones who build and maintain the smooth functioning of the city, must be given adequate housing and basic services. Their living conditions must be progressively ameliorated, *in situ*, as far as possible. They must not be subjected to forced evictions and displacement. The contribution of the city’s poor to the city’s economy must be acknowledged and laws should not discriminate against them and favour the rich.

### **Adoption of the Right to the City**

Few cities have taken initiatives to adopt a human rights approach to urbanisation and to actually incorporating and implementing the *right to the city*.

The *Brazil City Statute* is revolutionary in that it redefines the concept of land ownership and promotes the social dimension of the right to urban property. The Statute also promotes democratic participation in urban management, provides for legal instruments to regularise informal settlements, and to tax vacant under-used land. Particularly valuable from a human rights perspective is the provision in the Statute that makes it mandatory for all municipalities in Brazil to designate ‘special zones of social interest’ and thereby protect the *right to the city* for the cities’ marginalised people and areas.

*The Montréal Charter* commits the city to work with its inhabitants in building a framework for citizen’s rights and reciprocal responsibilities. It states that ‘*the Montréal city is both a territory and a living space in which values of human dignity, tolerance, peace, inclusion and equality must be promoted among all citizens.*’ It forms a covenant between citizens and their city administration to allow all inhabitants to take full advantage of city life, which permeates all aspects of municipal affairs.<sup>14</sup>

Rights-based approaches are also evident in the development of inclusive city policies in Lyon, France, which has adopted a rights-based approach to reducing spatial disparity, and increasing participation through its citizens’ forum. Eugene, USA, has set up a human rights project; Stonnington, Australia, has adopted a human rights charter, and Mexico City has set up a human rights directorate.<sup>15</sup> Other emerging initiatives include the *Global Charter-Agenda on Human Rights in the City*, which aims at including all sectors of society in a common agenda to promote human rights in the city.

### **Making the ‘Right to the City’ a Reality: Countering Obstacles**

The principles briefly discussed above help set the stage for taking the *right to the city* forward. The *right to the city* in our current reality, however, is limited to an elite section of society – those who have the economic and political power to benefit from the city. Significant work is thus required to ensure that the *right to the city* as the protection and fulfilment of the human rights of all, especially the most marginalised, is implemented and realised in cities and towns across the world.

Suggested strategies for city/town and national governments include:

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<sup>14</sup> Brown A. and A. Kristiansen, *Urban Policies and the Right to the City*, UNESCO – UN Habitat, March 2009.

<sup>15</sup> Ibid.

### **1. The implementation of international legal human rights commitments**

This includes the enforcement of human rights standards in treaties ratified by states, such as the *International Covenant on Economic, Social and Cultural Rights*, the *International Covenant on Civil and Political Rights*, the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention on the Elimination of All Forms of Racial Discrimination*, the *Convention on the Rights of the Child*, and the *Convention on the Rights of Persons with Disabilities*. Outcomes of United Nations (UN) conferences, and other UN resolutions, guidelines and documents should also be adhered to. These include, *inter alia*, the *Habitat Agenda*, the *UN Framework Convention on Climate Change* and the *Kyoto Protocol*, the *Vienna Declaration*, the *Rio Declaration on Environment and Development*, the *Beijing Declaration and Plan of Action*, and the *Plan of Implementation from the World Summit on Sustainable Development*.

### **2. Harmonisation of local and national laws with international human rights standards**

Local and national laws and policies such as those related to land acquisition, city master plans, housing, and resettlement must not go against the principles of international human rights law. They must strive to adopt and implement the standards set out in international law with the aim of achieving the realisation of the *right to the city* within local, regional and national contexts. Laws that ensure the guarantee of adequate housing, protection against forced evictions, right to education, health, water and basic services, should also be promulgated. International guidelines relevant to urban development and equitable distribution of resources should also be incorporated in local and national laws and policies. The *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*,<sup>16</sup> for instance, could provide guidance to states on taking steps to minimise displacement, to ensure security of tenure and to improve access to civic services; to provide adequate resettlement for those living in health and life-threatening conditions; and to ensure adequate compensation in cases of losses incurred due to actions of state and non-state actors.

Laws and policies which are clear abrogations of international human rights, such as anti-vagrancy laws and certain land acquisition laws, should be repealed.

Similarly there is a need for actions of the government to be harmonised – the actions of one city department must not go against those of another, especially where it results in violation of human rights.

### **3. Need for human rights-based ‘urban reform’**

The *right to the city* is closely linked to urban reform. Without a human rights-based reform of city policies and its development paradigm and ideology, the *right to the city* cannot be realised. A comprehensive urban land reform agenda needs to be developed in conjunction with various departments of the government and in collaboration with social movements. This must include details on reforming principles for land use, planning, decision-making, budgeting, zonal distribution, housing, and allocation of resources. Reforms in budgeting to ensure equitable allocation for the development of all sections of society, including women, children, and marginalised groups, is an important component of promoting the *right to the city*. City governments must also collect disaggregated data on key indicators with a view to achieving higher human rights standards and monitoring their human rights commitments.

Urban reform must focus on promoting the social function of the city and be ensconced in the principles of social and political inclusion, and on recognising and promoting human dignity.

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<sup>16</sup> See report of the UN Special Rapporteur on adequate Housing, Miloon Kothari, A/HRC/4/18, February 2007. Available at: [www2.ohchr.org/english/issues/housing/annual.htm](http://www2.ohchr.org/english/issues/housing/annual.htm).

#### ***4. Strong political will of city governments to implement human rights and to adopt and adhere to the World Charter on the Right to the City***

This includes the adoption of special measures by local and city governments to develop policies and plans to ensure the implementation of the World Charter and all the human rights contained within. Cities should go beyond the World Charter to ensure that all international human rights standards are upheld in their operational policies. These policies should be developed in close consultation with social movements and civil society groups that represent the city's diverse and multiple interests, including the homeless, slum dwellers, informal sector workers, and migrants.

#### ***5. Development of consolidated plans to ensure the simultaneous and collective development of all groups, with a special focus on the immediate realisation of rights for the most marginalised***

City planning should be participatory, inclusive, and represent the cross-section of interests and diversity in a city. There should be adequate representation of all groups in the development of city plans, including from economically weaker sections and marginalised groups. Adequate participation and consultation must be incorporated into all processes related to planning, including land use, housing, real estate development, and commercial development. Committees of government and civil society representatives should be formed to deal with issues of critical importance in the city.

#### ***6. Implementation of measures to check against rampant growth of the market***

This includes the adoption of measures to arrest real estate speculation and the growth of the land mafia, which leads to unsustainable and artificial inflation of property and housing prices, thereby making housing unaffordable for the masses. The state must also, as mentioned before, prevent the privatisation of basic services and tax consumption of luxury goods as well as essential services beyond a certain level. Subsidies should be provided for the economically weaker sections to access civic services, housing, and public transport.

#### ***7. Other Recommendations***

These suggestions have been made in the course of the paper but merit reiteration to ensure that governments work for their achievement:

- Ensure adequate investment in public services, including social / public housing, parks, playgrounds, and efficient and user-friendly public transport systems;
- Undertake measures to make the city safe and accessible for women;
- Provide legal security of tenure, regularise land ownership and prioritise the improvement of precarious neighbourhoods and informal housing settlements;
- Protect the rights of workers in the informal sector, and adopt and implement social security legislation that would also benefit them;
- Legally recognise collective ownership of land, property and natural resources;
- Promote the collective development of culture and cultural rights.

## **Conclusion**

As elaborated above, in order to counter the debilitating reality of dispossession and exclusion of the urban poor and working classes, the *right to the city* as a concept encompassing a bundle of human rights could become a powerful organising principle for mobilisation and advocacy. As a movement it could help

articulate and realise the model of an alternative city – one that is grounded in human rights and based on equality, inclusion, mutual respect, tolerance, freedom, social justice and environmental sustainability.

Across the world today, individuals, movements and campaigns for the human rights to adequate housing, food, land, livelihood/work, health and security, are struggling to regain access to urban spaces and services, to secure safe housing and sustainable livelihood opportunities, to minimise forced evictions and to ensure adequate resettlement. These initiatives could rally around the paradigm of the *right to the city* as an organising principle that encompasses all human rights that all residents of a city can rightfully claim as their own – with those currently poor and marginalised having priority in state policy.