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Plataforma Global por el Derecho a la Ciudad
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Moving toward the Implementation of the Right to the City in Latin America and Internationally
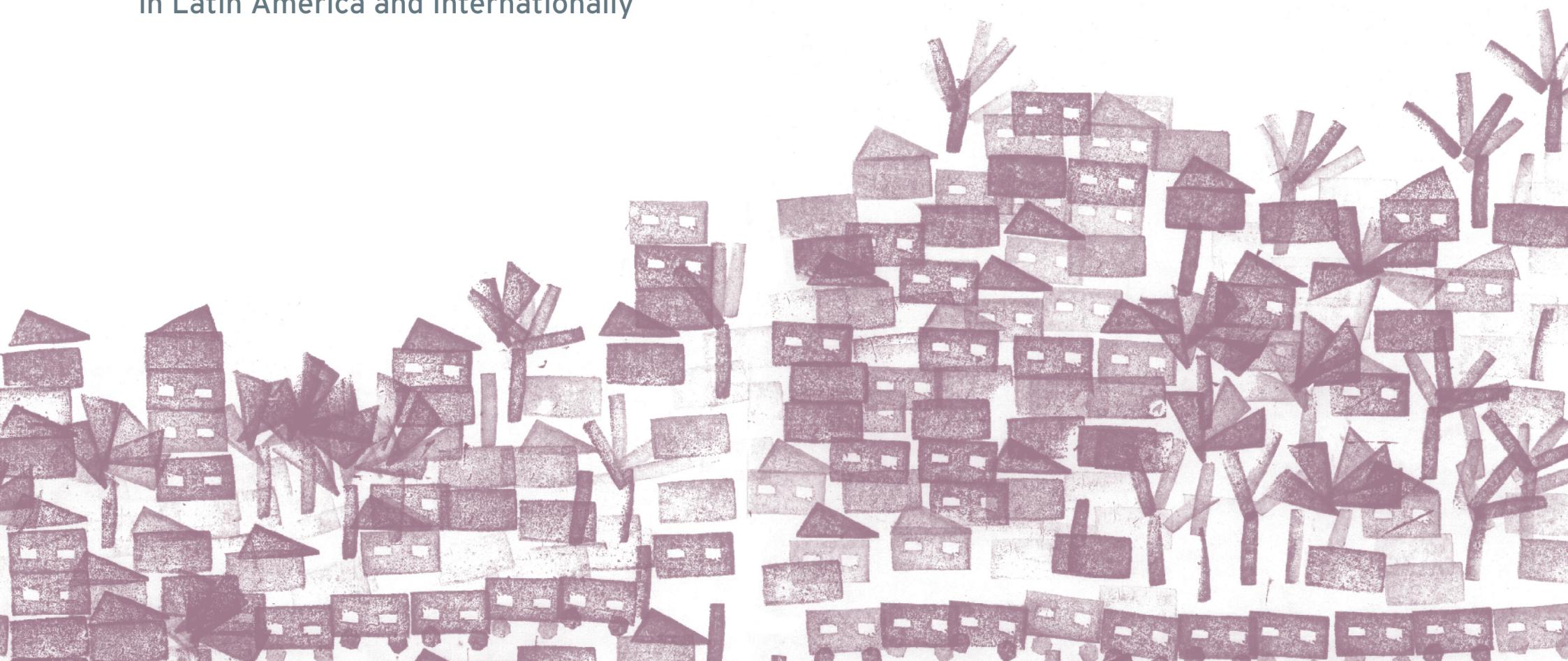
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Introduction

This publication gathers the research "Moving toward the Implementation of the Right to the City in Latin America and Internationally", an initiative of the Global Platform on the Right to the City.

Its main objective is to update and delve the international process of debating the right to the city content and strategies through a Global Platform on this issue in order to propel the process on national and global levels and to advance in its recognition and realization on different scales, also contributing on international level to integrate an agenda of commitments and actions for implementing the Right to the City in the World Urban Agenda, which will be drafted during the process of the III Conference on Housing and Sustainable Urban Development and in the Post-2015 Development Agenda - Sustainable Development Goals.

Five researches were conducted in countries and cities in Latin America, Europe, Asia and Africa. In Latin America, Brazil and Colombia were selected, focusing on the cities of Sao Paulo and Bogota; in Europe, Italy and Spain were the focus of the research, as well as the cities of London, Istanbul and Hamburg; and, in Africa, South Africa and Kenya were singled out, and the cities of Cairo and Jerusalem were also part of the research.

The conducted researches aim at contributing to the understanding of the right to the city as a collective right of the cities' inhabitants that comprises the dimension of adequate urban living conditions and social justice as well as of strengthening participation, direct democracy and citizenship in the cities, which has been built since the early 21st century through an international network of civil society actors and national and local governments being developed in World Social Forums, Urban Social Forums and World Urban Forums.

The studies bring a critical analysis to revise and update the practices and forms of acting in favour of the right to the city – by identifying, registering and systematizing legislation, policies, programs, projects, practical experiences promoted by governmental bodies, public institutions, social and cultural organizations and groups of the society.

This research intends to stimulate the production and dissemination of knowledge on the right to the city in order to contribute with building equal, democratic and sustainable cities throughout the world, as well as supporting the development of a global network of researchers through an International Observatory of the Right to the City oriented at monitoring and following up public policies and local, national and international initiatives over the Global Platform on the Right to the City, particularly those regarding the compliance with the commitments made on behalf of this platform in the Post-2105 Millennium Agenda - Sustainable Development Goals and the World Urban Agenda defined during Habitat III.

The research was coordinated by Instituto PÓLIS (coordinating member of the National Forum for Urban Reform - FNRU) and by the Habitat International Coalition - Latin America (HIC-AL), and supported by the Ford Foundation.

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The history of the right to the city in Brazil is connected to social struggles demanding structural reforms in land tenure regulation through agrarian and urban reform.

The Brazilian development model, based on large lanThe Brazilian development model, based on large landholdings with products destined for exportation, was the main way to boost the economy. Only in the 20th century there was a radical demographic shift driven by the industrialization process, which translated into an intense and disordered migration to urban centres.

Conurbations in Brazil began after the 1929 international economic crisis, when the coffee exportation crisis (a product that was the base of the Brazilian economy) caused thousands of unemployed people to seek better living conditions in the cities.

Although the consequences of a disorderly and accelerated urbanization fell on the hands of municipalities, at the time, there was not a conception of the municipal entity as the main responsible for the urban development. Therefore, the public authority's scarce resources and investments benefited the private sector by adopting urban planning regulations privileging the real estate sector's profits (Bassul, 2010, pp. 71).

Since the 1940s, the rural exodus changed the urban panorama: the share of the national population living in urban areas went from 30 to 75%. From the 1950s until the late 1980s, Brazil experienced a developmental period marked by the expansion of cities without basic infrastructure and with poor living conditions, the informality and self-building resulting from this marked the Brazilian development model. In these decades, urbanism was conducted under a technocratic framework. Concerning this issuet, José Roberto Bassul writes:

"The regulatory planning, founded on the belief that the drafting of the urban policy should happen under a technical sphere of public administration, instead of reverting this picture, accentuated its effects. The technocratic management fuelled a process characterized by the private appropriation of public investments and the segregation of large population groups in favelas, tenement houses and peripheric subdivisions, excluded from the consumption of urban goods and essential services."[1]

In 1953, the outcome document of the III Brazilian Congress of Architects proposed issuing a law that created a specific ministry for housing and urbanism. In 1959, the Rio de Janeiro Department of the Brazilian Institute of Architects presented a bill to presidential candidates (during the 1960 elections), entitled "Home Ownership Law" (Lei da Casa Própria) proposing the establishment of commercial partnerships responsible for funding and acquiring housing, among other measures like the creation of a National Housing Council. This council was created in 1962, under the João Goulart administration. (Bassul, 2010, p. 72)

It should be noted that, between 1950 and 1960, there was an intense mobilization of several social movements around President João Goulart's *"grassroots reforms"* proposal, in which the countryside had a major role in class conflicts. The *grassroots reforms* lodged various claims including reforms for the health and education sectors, among others, emphasizing land reform that had greater impact on the media.

According to Boris Fausto, the grassroots reforms:

"(...) covered a wide range of measures, land reform among them, aimed at eliminating land tenure conflicts and ensuring access to property to millions of rural workers. For doing so, it proposed changing the Constitutional instrument providing land dispossession for public necessity or utility or for social interest, but only through a compensation in cash. Since the State

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1 BASSUL, José Roberto. "O Estatuto da Cidade: a construção de uma lei". *In*: CARVALHO, C. ROSSBACH, A. (org.). *O Estatuto da Cidade Comentado*. São Paulo: Ministério das Cidades: Aliança das Cidades, 2010, p. 71.

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had no resources to compensate the owners subjected to expropriation, making land reform unfeasible, so the grassroots reform defended a change in the Constitution. That would allow the government to pay the owners over time, after the expropriation, with public bonds.''[2]

The period of claims for grassroots reforms also witnessed the demand for urban reform, especially concerning the creation of conditions for tenants to become owners of the rented properties. (FAUST, 2012, pp. 381).

With the increasing concentration of people in the cities and the segregation and inequality that characterize it, the movement for urban reform gained strength, becoming a necessary movement in face of the intensification of urban problems and conflicts.

In 1963, the Brazilian Institute of Architects (IAB, in Portuguese) held a seminar on housing and urban reform, known as Seminario do Quitandinha, which culminated in a document demanding the Executive branch to submit a bill to the National Congress including the principles and proposals approved during the seminar, focusing specially on the urban housing problematic. This was the first actually explicit manifestation for urban reform.

Still in 1963, President João Goulart submitted a statement to the Congress addressing the urban reform issue. However, after the 1964 coup and the establishment of the civil-military regime, social movements reduced their scope of action and lost strength. At the same time, inequalities in the city continued to rise as consequence of the policies concerning the urban issue adopted by the new dictatorial government.

The military government reduced urban policies to the creation of the National Housing Bank in a strictly financial housing approach, ignoring the country's urban nature, which was already presenting itself.

During the 1970s, still under the dictatorial government, several movements, organizations and associations were articulated to integrate the struggle for urban reform, strongly influenced by initiatives from some sectors of the Catholic Church linked to the Liberation Theology that assisted rural workers movements, like the Pastoral Land Commission - CPT[3].

By the late 70s, social movements regained visibility. In 1978, the 20th National Conference of the Bishops of Brazil published a document entitled "Urban land and pastoral action" with harsh critics to speculative land retention in cities, delving the idea of "social function of urban property". The document was a very important milestone in the urban reform struggle, especially in an already different context where most of the population no longer lived in the countryside - they were in the cities.

However, it was only with the end of the dictatorship, in 1985, that the urban reform gained importance once more. Demands concerning urban reform were part of the claims in demonstrations and debates during the country's re-democratization (demanding "Direct elections now!") appearing as a key element for reverting deep social inequalities.

In 1987, with the National Constitutional Assembly being installed since the previous year, proposals from social, popular and professional initiatives were admitted and over 30,000 electors subscribed them.

In this context, the National Movement for Urban Reform (MNRU, in Portuguese) was composed; bringing together trade unions, professional bodies, representatives of churches and popular movements, and launching the banner "Right to the City for All". The movement submitted to the Congress the Popular Emend of Urban Reform bill, backed by the National Federation of Engineers, the National Federation of Architects and the IAB, signed by over 130,000 voters.

The Emend initially contained 23 articles, but it passed with only two, due to the construction industry and real estate lobby. The Emend was approved, only partially satisfying the Movement for Urban Reform and the real estate sector.

2   FAUSTO, Boris. *História Concisa do Brasil*. São Paulo: EDUSP/Imprensa Oficial, 14 ed., 2012, p. 381

3   MARICATO, Ermínia. *Globalização, Fragmentação e Reforma Urbana*. In: Ribeiro, Luiz César de Queiroz e Orlando Alves dos Santos Jr. (Orgs.). *Reforma urbana: Limites e Possibilidades. Uma Trajetória Incompleta*. Rio de Janeiro: Civilização Brasileira: 309-325, 1997, p. 310.

According Bassul,

"By the end of the constitutional process, the Popular Emend of Urban Reform was partially approved, which seemed to displease both poles of debate. On one hand, MNRU was dissatisfied because the social function of property, a fundamental guideline of the Emend, had been subjected to a federal law that would set the guidelines for urban policy and for municipal master plan as well. Alternatively, the Federation of Industries of the Estate of São Paulo (FIESP) publicly disagreed with the urban adverse possession." (Maricato, 1988)[4]

The Constitution, promulgated in 1988, approved Articles 182 and 183 in a chapter called "Urban Policy", under Section VII on "Economic and Financial Order", demanding both the city and the urban property to fulfil their "social function". Therefore, this regulatory framework is the first one establishing an urban policy oriented at achieving urban reform goals.

It should be stressed that, since the promulgation of the constitution, the democratic system has been implemented in the country, through the creation of several political parties and social movements from different tendencies that carry the urban reform banner in their programs.

From then on, the first experiences implementing urban policy instruments were conducted , which later would be provided by the City Statute. These early experiences were conducted by municipalities, like Recife, Belo Horizonte, Porto Alegre and Diadema, which regularized lands from areas occupied by low-income population.

On the other hand, we should note that, at the same time, a new model of global capital reproduction - neoliberalism – was being installed since the 80s. In Brazil, this process brought a wave of privatizations and cuts in social services and public equipments. In Brazil, this model lasted, in a more evident way, until the 2000s, leaving consequences of severe social inequality.

According to urbanist Raquel Rolnik,

"The urban issue and, particularly, the urban reform agenda, constitutive of the guidelines of social struggles and frailly experienced in municipal areas in the 1980s and early 1990s, were abandoned by the public authorities on all spheres. That happened in favour of a coalition for development that articulated neo-Keynesian strategies of job creation and wage increase with a neoliberal urban development model, focused solely and exclusively on facilitating market shares and opening fronts of financial capital expansion, being the World Cup and the Olympics Games project its latest ... and most radical expression"[5]

However, a neo-developmentalism model, characterized by the attempt to repair the ravages of the neoliberal model has been under way since the 2000s, reprising the State's role as inducer of the development.

The 1988 Federal Constitution and the City Statute

The 1988 Constitution is the first instrument making the urban matter positive in the Brazilian legal system, guaranteeing it a great emphasis verified on its multiple instruments concerning guidelines for urban development, environmental preservation, urban planning and social function of urban property.

However, it should be said there already was a legislative instrument, Law n. 6766/1979, still in force, which provides urban land parcel and use, but it does not address urban policy from a social justice perspective.

4   BASSUL, José Roberto. "O Estatuto da Cidade: a construção de uma lei". *In*: CARVALHO, C. ROSSBACH, A. (org.). *O Estatuto da Cidade Comentado*. P. 55-70. São Paulo: Ministério das Cidades: Aliança das Cidades, 2010. P. 79

5   ROLNIK, Raquel. "As vozes das ruas: as revoltas de junho e suas interpretações". In: MARICATO, Erminia (et al). *Cidades Rebeldes: Passe Livre e as manifestações que tomaram as ruas do Brasil*. São Paulo: Boitempo: Carta Maior, 2013. P. 9.

From this legal structure, we can say that, in Brazil, urban law emerges as an urban development policy – based on land regulation, urban reform and the right to the city – establishing a set of norms that determine how to define urban regulations and the urban policy objectives, that requires an actual urban policy implementation.

Thus, the central issue to be faced is the possibility of State intervention in the urban real estate domain, conducting the urban development process.

"After the 1988 Constitution, it is necessary to understand the Urban Law evolution from the legal framework of social function of property along with the new legal principles that govern the relations between State and society. Collective and social dynamics of the urbanization process cannot be translated by the civil law's individualistic perspective nor by the rigid division between public power and society. In fact, the 1988 Constitution created a new collective right: the right to urban planning"[6]

Achieving the social function of urban property depends on the estate's adequacy to the Master Plan regulations. Thus, the Constitution grants the city Master Plan the task of establishing and implementing a policy of local urban planning. SAULE Jr. explains that the Master Plan is the basic instrument to connect property and urban policy goals – the Plan must establish the urban planning requirements and how to fulfil the property's social function[7]. Therefore, the analysis on whether an estate complies with the social function of property relies on its adequacy to the Master Plan requirements (especially those regarding zoning issues).

The federal entity responsible for doing so is the municipality (mandatory for municipalities with more than 20,000 inhabitants), thus, urban planning in Brazil is decentralized and the municipal jurisdiction is preeminent over other federal entities. In fact, the Constitution states in its Art. 30, VIII, that the municipality is responsible for *"promoting proper land management, by planning and controlling the use of urban land parcel and occupation."*

After the adoption of the new Constitution, the National Forum for Urban Reform (FNRU[8]) was created, gathering a series of housing movements, organizations, institutions and technicians (lawyers, urban planners, architects, sociologists, etc.) that were already mobilized during the constitutional process to pressure the Congress for regulating the Chapter on urban policy.

The legal regulation instrument is Law n. 10,257, of July 10, 2001, passed twelve years after the enactment of the Brazilian Federal Constitution. The law, called City Statute, seeks to regulate the full development of the social functions of the city and of urban properties.

The right to the city, defined as the *"right to urban land, housing, environmental sanitation, urban infrastructure, transport and public services, work and leisure, for present and future generations"*, is, therefore, expressly incorporated in the Brazilian legal system as a right. This is an innovative experience, since it recognizes the right to the city as a fundamental right, based on the constitutional principle of the social function of the cities.

It should be mentioned that, in Brazil, due to a positivist law tradition, the general guidelines of the City Statute are still seen as mere statement of intentions, devoid of any effectiveness. However, this tendency has been replaced by the constitutionalist perspective that affirms the legal force of its principles and guidelines and imposes their immediate applicability. However, there are still few cases where the Judiciary actually applies these guidelines.

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6   ERNANDES, Edésio (Org.). *Direito Urbanístico e política urbana no Brasil.* Belo Horizonte: Del Reym 2000, p. 21-22.

7   SAULE, Jr. Nelson. *Novas perspectivas do direito urbanístico brasileiro. Ordenamento constitucional da política urbana. Aplicação e eficácia do plano diretor.* Porto Alegre: Fabris, 1997, p. 58-59.

8   For more information on the FNRU, see http://www.forumreformaurbana.org.br/.

In addition, the City Statute provides guidelines on land use, land tenure regulation and economic, fiscal and financial policies. According to the regime of urban capacities stipulated by the Constitution, the City Statute, in article 3, reaffirms that the urban policy should be developed by the municipalities, in accordance with the general regulations definedt by the Union. Therefore, the Statute, in addition to guidelines, also offers instruments for the urban property to fulfil its social function, for land tenure regularization and for the democratic management of the city.

Nevertheless, the search for the effectiveness of the constitutional provisions faces the lack of economic viability in many municipalities because of their low revenue, which depends on transfers from the Federal Government.. In this situation, the federal hierarchy conflicts with the conception provided in the Constitution.

In addition, there are metropolitan management bodies with no political, administrative, technical and financial capability to address neither issues of common interest nor conflicts and disputes in the legislative, administrative, fiscal and financial arenas between federa entities[9].

Article 4 of the City Statute addresses the legal and political instruments required to implement the urban policy. They are: *"A) expropriation; b) administrative easement; c) administrative constraints; d) preserving buildings and street furniture; e) creating conservation units; f) creating special zones of social interest; g) concession of right of use; h) special concession of use for housing purposes; i) compulsory parcelling, building or use; j) special adverse possession for urban properties; l) surface rights; m) right of precedence; n) onerous concession of the right to build and change of use; o) transferring of the right to build; p) consortium for urban operations; q) land tenure regularization ; r) free technical and legal assistance for the least privileged communities and social groups; s) popular referendum and plebiscite; t) urban demarcation for land tenure regularization (included by Law n. 11.977/2009.); u) legitimation of possession (included by Law n. 11.977/2009)"*.

This section provides the following instruments to the municipality:

- The various **forms of social intervention on the free use of private property**: expropriation, administrative easement, administrative constraints, preserving buildings or street furniture, creating conservation units, compulsory parcelling, building or use and the right of preference;

- **Land tenure regularization for occupations of social interest:** concession of the right of use, special concession of use for housing purposes, special adverse possession for urban properties, surface rights, urban demarcation for land tenure regularization and legitimation of possession;

- **Stimulating urban development and redistributing the collective benefits of the urbanization process**: onerous concession of the right to build and change of use, transferring of the right to build, and consortium for urban operations;

- The instruments designed for management of rights and urban housing democratization: popular referendum and plebiscite, and free technical and legal assistance for the least privileged communities and social groups"[10] (our highlights)

Some instruments require comments. For instance, the forms of social intervention in the free use of property, like compulsory parcelling and building that fight against vacant properties are not applied.

9   SAULE JR., Nelson. "Bases jurídicas para a instituição de uma lei federal sobre o sistema nacional de desenvolvimento urbano". In: SAULE JR. Nelson (Org.) *Direito Urbanístico: Vias jurídicas das políticas públicas urbanas*. Porto Alegre: Fabris. Ed., p.83-186, 2007, p. 83-104.

10 CARVALHO, C. ROSSBACH, A. (org.). O Estatuto da Cidade Comentado. FERNANDES, Edésio. São Paulo: Ministério das Cidades: Aliança das Cidades, 2010. P. 96

In turn, the *consortium for urban operations*, articles 32-34, is widely used in Brazilian bigger cities[11] as a way of achieving the Master Plan goals through a partnership with the private sector. It is important to mention that the urban consortium operation is very criticized specially because this instrument transfers the definition of a development for a particular area to the private sector, and its application has shown an increase in social and spatial segregation and inequality in enjoying its benefits, contrary to the Brazilian legal order's conception. According to José Roberto Bassul,

"On one hand, market interest instruments, such as consortium for urban operations, are being increasingly applied in several capitals. Within the scope of these operations, public resources are obtained through the alienation of new structural rights, represented by Certificates of Additional Construction Potential (CEPACS[12]), directed at urban investments. However, the urban transformations obtained, while adding an affluent profile to emerging economies, do not always translate to effective benefit for the populations affected by alterations in building regulations or even to the articulation of the very urban functions."[13]

In theory, the consortium for urban operations in an instrument of exception; however, it has become the rule and provides a lack of meaning to the Master Plan provisions on land use and occupation. Lúcia Leitão explains:

"This absence of meaning is more evident when one considers, for example, that setting land rates and use for specific areas, something very common in these operations, is typical of a land use law. By providing that rates and characteristics of land parcelling and can be altered (...) in an urban operation, the propositions for a land use law in the municipality become meaningless. That evidently happens because the ones interested in the changes, especially the real estate market, will enact urban operations whenever they meet building limits in the law of land use, making it therefore innocuous to its function of organizing urban land use and defining the desirable levels of construction density in each area of the city".[14]

In addition to the institutional programs of specific governments - which varies according to the administration -, it should be noted that, for land tenure regularization purposes, the Special Urban Adverse Possession for Housing Purposes, the Special Concession of Use for Housing Purposes (CUEM) and the Concession of Right of Use (CDRU) are instruments frequently used by social movements and human rights offices. However, these land regularization instruments still face many obstacles for their effectiveness in Brazil. One of them is the substitution of regularization for private initiatives, like the Program My House My Life – which will be commented later.

Another obstacle is the way the Judiciary and notaries of land registry act. There are many cases of unreasonable demands for certain documents in judicial proceedings or when doing the registry.

In São Paulo, for example, the State Court of Justice developed a booklet[15] imposing the submission of birth, marriage and death certificates (the last one with a 60-day expiry) for all demanding parts. This evidently makes the Special

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11   For example, the la Operação Urbana Água Espraiada and the Operação Urbana Jacu-Pêssego, in São Paulo.

12   [Translator's note] Certificado de Potencial Adicional de Construção - CEPACs, in Portuguese.

13   BASSUL, José Roberto. Avanços e Obstáculos para a Implementação do Estatuto da Cidade. 2011. Available at: https://www.google.com.br/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB0QFjAA&url=http%3A%2F%2Fwww.esdm.com.br%2Finclude%255Cdownload SA.asp%3Ffile%3Ddownloads%255CEstatutoCidade10PA%2520-%2520Bassul_20102011120436.pdf&ei=H_ENVK2tBtjAggSz0oKYBQ&usg=AFQjCNF9AHvR4LUTz5dQH_okjcKWpWTQPw&sig2=mW993E91-1Gz6iH0LdpbQw&bvm=bv.74649129,d.eXY

14   LEITÃO, Lúcia. Remendo novo em pano velho: limites dos planos diretores. In: ALFONSIN, Betânia; FERNANDES, Edésio. Direito Urbanístico: Estudos Brasileiros e Internacionais. Belo Horizonte: Del Rey, 2006, p. 327.

15   Available at: www.tjsp.jus.br/Download/Corregedoria/pdf/

Urban Adverse Possession for Housing Purposes not viable when collectively done for many reasons, like the high price to issue each document, the lack of integrated notary services, and the fact that this kind of demands is not supported by the legislation; resulting in the termination of actions for adverse possession and in tenure insecurity.

Notably, there is a complete unwillingness of the Judiciary to make the instruments of the Statute applicable, the lack of commitment of judges with legislative changes and with changes of concepts in urban matter. This absence of commitment often has to do with an actual lack of knowledge regarding Brazilian urban law, and with its relation to politics and to the urbanization process as well. The result is predominant conservative decisions that privilege a civil individualism based on the idea of formal equality between people and on State neutrality before reality. In addition, there is a difficulty in accessing the Judiciary to seek recognition for collective rights in urban and environmental matters.

The *Special Zones of Social Interest* (ZEIS, in Portuguese), although implemented, hardly represent more than the designs of the public authorities' intentions. The creation of ZEIS is does not immediate apply the social function of property and is far from a destination for social housing.

The *onerous concession of the right to build instrument* (Article 28-30 of the City Statute) allows the municipality to grant building authorizations above the limits defined by the minimum exploitation coefficient in the Master Plan in exchange ffor a financial compensation given by the owner. When applying the instrument, we can observe the *"establishment of a formula that results in small compensations in exchange for construction advantages of great market value to private entrepreneurs"*[16]. In São Paulo, this was the case , for example, of the Água Espraiada, Centro and Faria Lima Urban Operations[17].

Moreover, the law establishes tax and financial institutes: *"a. taxes on urban estate and land property (IPTU); b.improvement fees; c. tax and financial incentives and benefits."* IPTU is a municipal tax whose incidence falls upon urban property owners. Setting the fee reflects both the municipal revenue quantum and a tax policy concerning urban development that, through the mandatory tax incidence over properties, determines the appropriate land use level and the population density. The progressive municipal property tax over time has a penalty character for breaching the social function of urban property.

However, the progressive incidence, which is essential to fight speculative withholding of urban land, has had its implementation limited thirteen years after the adoption of the Statute. The municipalities are reluctant to notify owners and effectively dispossess them paying in government bonds. .

According to BASSUL:

"(..) The City Statute's instruments with a more redistributive profile have not been applied yet, especially those precisely aimed at fighting vacant properties, like the compulsory parcelling and building, the progressive taxation over time and the dispossession through payments in government bonds. These instruments remain empty themselves. They face the old interests of the real estate sector, who always has, and still dues, ruled over most of the political power."[18]

Finally, one of the City Statute's key elements is democratic management, i.e., the city population participating in the urban management, establishing a series of instruments and deliberative and consultative bodies, through which the civil society, especially the historically marginalized and politically and economically excluded groups, can participate in the decision-making process concerning regarding the cities' future.

16 BASSUL, José Roberto. Avanços e Obstáculos para a Implementação do Estatuto da Cidade. 2011.

17   GOMES, Rodrigo. *Plano Diretor de São Paulo é atrapalhado por conflitos com leis de regulação urbana*. Rede Brasil Atual, 2013. Available at: http://www. redebrasilatual.com.br/cidades/2013/05/falta-coerencia-entre-plano-diretor-e-leis-complementares-de-regulacao-urbana.

18   BASSUL, José Roberto. Avanços e Obstáculos para a Implementação do Estatuto da Cidade. 2011.

Nonetheless, democratic management is hardly achieved. Its main instrument, the Master Plan, which, according to legal frameworks, should be developed and adopted through a broad debate with society, is often criticized. It is possible to observe that the calls for public hearings are publicized within few days of the hearings, without clearly defined guidelines[19], and that the hearing is not a space for achieving consensus and synthesis among social sectors (Public Power, Private Interests, Social Movements, etc.). Thus, the participatory process referred to in the City Statute is forgotten, becoming just a formal requirement to validate the Plan.

Furthermore, most of the councils for popular participation existing in the cities are merely advisory bodies devoid of financial reserve; therefore, these spaces do not have an actual power of deliberation and decision-making regarding the city's future.

In short, despite the constitutional and legal provisions being truly innovative frameworks and there being timid and isolated experiences of implementing the City Statute's instruments, the effectiveness of its normative premises is a completely different reality. In general, the Statute's instruments and tools are rarely applied by the municipal governments and by the Judiciary. With little implementation, the main beneficiary of the segregating logic of urban occupation is the real estate sector, who is growing at a fast pace in Brazil.[20]

Program My House My Life

In 2009, the federal government launched the program "Minha Casa Minha Vida" (My House My Life)[21], according to Law n. 11.977/2009. PMCMV is a policy conceived as a program for producing housing through the market – a countercyclical measure against the 2008 economic crisis that focuses on generating investments in the construction industry.

The program proposes subsidizing the purchase of "your own house" for people earning from 0 to 10 minimum wages. In 2011, the government launched the PMCMV 2, according to Law n. 12.424/2011.

During its first phase, over 1 million residences were contracted and, for the second phase, there will be over 2 million houses and apartments. For this purpose, the federal government granted R$ 125.7 billion in subsidies and credit lines. The subsidies can reach up to 25,000 Reais (Brazilian currency) and it established a 360-month period to finance the property.

The government's objective was directing the low-income housing demand to the real estate sector, since the market is not interested in supplying this specific demand. Considering the total amount of resources, 97% of the public subsidies went to the private sector, and 3% was allocated to non-profit institutions, housing cooperatives and social movements.

It is worth mentioning that the production of houses and apartments for people earning from 0 to 3 minimum wages is supplied by the private sector:

"Production 'by supply' means that the construction company defines the plot and the project, approves it in the competent bodies and sells everything that was produced to the Federal Savings Bank [Caixa Econômica Federal], with no expenses regarding incorporation and commercialization for the real estate sector and without risking non-payment or vacant units. The Bank defines who gets access to the properties from lists of demand registered by the municipalities."[22]

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19 Regarding the Judiciary's intervention on the developing process of the São Paulo Master Plan, see: http://sao-paulo.estadao.com.br/noticias/geral,justica-determina-que-audiencias-do-plano-diretor-de-sp-sejam-mais-claras,1154690.

20 Available at: http://www.forbes.com/sites/kenrapoza/2013/03/30/brazil-high-flying-real-estate-prices-outpace-all-countries/.

21 For more information, check the program website: http://www.minhacasaminhavida.com.br.

22 ARANTES, Pedro Fiori. Da (Anti) Reforma Urbana brasileira a um novo ciclo de lutas nas cidades. 2013. Available at: http://www.correiocidadania.com.br/index.php?option=com_content&view=article&id=9047%3Asubmanchete091113&catid=72%3Aimagens-rolantes&.

In addition to securing all the risks that the private sector would assume, the package has no concern with either the architectural and urban quality of the buildings, or their environmental sustainability. It proposes homogeneous residences throughout the country, regardless of the country's cultural, climatic and geographic diversity.

Sectors of the right to the city movement have countless critics to the program. Pedro de Fiori Arantes exposes some of them:

"The Urban (Anti) Reform conducted by PT [Workers' Party], its end of line and its realization culminate in the Program My House, My Life (PMCMV). Three million residences have been produced in the last five years, with the justification of a large-scale attack on the housing deficit, almost entirely under private control, using public resources and promoting a wave of increasing land prices across the country. In MCMV, the private sector determines the land policy and also defines where and how the urbanization will be implemented, the architecture, the technology to be employed and so on. The State renounced a public policy on land and urban development, renounced having an intelligence project for the cities and qualifying them. In addition to 13 major construction companies, MCMV is also operated by the Federal Savings Bank - whose president is the Workers' Party urban planner - following the financial rationality of calculating the consigned credit commercial risks and a checklist of minimum requirements for approving the projects (whose control is often outsourced). It relies on the fiduciary conveyance law, which warrants the companies during the resumption of properties from non-payers and allows advancing the market for precarious populations."[23]

The program allows expressive economic subsidies to the market system's housing financing for meeting the social housing demand. This mechanism has allowed providing public resources in the form of subsidies for purchasing units produced by the private real estate network, defining subsidies according to the capacity to pay of the social demand.

In 2003, the federal government created the Ministry of Cities, and, in 2004, the Council of Cities, an advisory body to the federal government, composed by various sectors of social movements, private sector, trade unions, academic and professional entities, among others. Despite having a Ministry and a specific Council for discussing the housing issue, the federal government passed this package without any articulation with its own ministry. In fact, the PMCMV conception was not even discussed in the National Council of Cities, an affront to the constituted representative instance of popular participation, which also exposes the program – considering it concerns less the housing issue and has a more market-oriented character.

Neither there is a connection between the residences produced by the program and the territory (infrastructure, localization, access to transportation, employment, public and communal facilities), that is, it is not connected to the instruments provided by the City Statute and the municipal Master Plans, contrary to the national policy logic that seeks to associate the housing policy with the land tenure policy.

According to José Roberto Bassul,

"Based on the wide supply of individual credit and subsidies for the private production of social housing, the PMCMV - Program My House My Life -, strictly from the urban economy point of view (excluding, therefore, its debatable architectural and urban aspects, a huge controversy per se), has brought an exponential rise in land prices. This speculative effect results in the same old process of peripheralizing working-class neighbourhoods, whose occupants have to bear huge social costs due to the lack of public services,

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23 ARANTES, Pedro Fiori. Da (Anti) Reforma Urbana brasileira a um novo ciclo de lutas nas cidades. 2013. Available at: http://www.correiocidadania.com.br/index.php?option=com_content&view=article&id=9047%3Asubmanchete091113&catid=72%3Aimagens-rolantes&.

especially those concerning adequate transport and urban mobility systems"[24]

Nevertheless, the destination of the publicly subsidized housing is not reaching the primary demand (those who receive zero to three minimum wages) and, therefore, does not address the housing shortage – which could be characterized as a misuse of public resources, since it diverts from its original purpose.

Moreover, the approved policy ignores municipal capacity and local codes. Mariana Fix and Pedro Fiori Arantes explain:

"(...) Municipalities do not have an active role in the process, except, at best, for requiring compliance with local laws, since the housing proposal submitted by the Federal Economic Bank goes against municipal codes and laws in many cities, creating impasses. Municipal structures for land use management, project and control are not strengthened. Local public authorities have no place in deciding where to invest, defining the projects' quality or performing public tenders for building.

It is even possible that municipalities are pushed, in medium-size cities (the ones with over 50,000 residents that will be the main destination for investments), to alter land use legislation, use coefficients and even the urban perimeter in order to make the projects economically feasible. Housing companies and public housing offices must be prepared to become a desk of approvals, many of them 'flexible'."

Regarding the modality "My House My Life - Entities", to which 3% of the production is destined, its implementation, like its critics, are still being developed but can already be observed. This modality has passed the obligation of housing construction from public authorities to the movements. Many of them have almost become mini-construction companies, reinforcing the ideology of "one's own house".

Finally, it is worth mentioning that the package does not condition housing production to urban reform instruments, like the City Statute, which represents a setback in the struggle for the right to the city

June 2013 - A twist in the Brazilian situation

Since the movement known as *Diretas Já!* [Direct Elections Now!], which fought for direct vote in the re-democratization process after the military dictatorship, the country's population had not seen seen this mobilized, outraged and dissatisfied with the lack and poor quality of public services: transportation, health, education and public safety, as it was in the June 2013 uprisings.

The catalyst for the so-called *June Journeys* was the 20-cent increase in bus and subway fares in São Paulo. With mottos like "It's not just about 20 cents", the youth took the streets to protest.

The popular uprisings that marked June did not begin in 2013; they were the product of an accumulation of forces. Brazil had already witnessed social protests against the increase in transport fares in 2006 (Vitoria), 2011 (Teresina), 2012 (Aracaju and Natal) and in early 2013 (Porto Alegre and Goiania).

The demonstrations were harshly repressed by the Military Police, controlled by the Government of the State of São Paulo. Journalists, press photographers, lawyers and demonstrators were severely attacked with rubber bullets, tear gas and flash grenades[25].

This was the catalyst for over 1 million people to take the streets in Brazil on June 17, 2013. São Paulo, Rio de Janeiro, Brasília, Porto Alegre, Aracaju, Recife, Cuiabá, Teresina, Vitória, Fortaleza and many other towns and cities were taken by the

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24   BASSUL, José Roberto. Avanços e Obstáculos para a Implementação do Estatuto da Cidade. 2011.

25   Em dia de maior repressão da PM, ato em SP termina com jornalistas feridos e mais de 240 detidos. Available at: http://noticias.uol.com.br/cotidiano/ultimas-noticias/2013/06/13/em-dia-de-maior-repressao-da-pm-ato-em-sp-termina-com-jornalistas-feridos-e-mais-de-60-detidos.htm.

population. This resulted in reverting the fare increase in over a hundred Brazilian cities.

In the words of the Free Fare Movement of São Paulo (MPL-SP), the right to the city is understood as the appropriation of urban space by those who live therein. This was the greatest claim in the protests:

"If taking back the urban space appears as a goal of the protests against the fare increase, it has also performed a role as a method in the practice of occupying the streets and directly determining their flows and uses. The city is used as a weapon for its own recovery: knowing that only blocking a crossroad compromises the whole movement in the city, the population launches the metropolis chaotic transportation system against itself, a system that prioritizes individual transport and leaves people at the edge of collapsing. In this process, people collectively assume the reins of their everyday life. Therefore, the true popular management happens in the people's direct action over their own life - and not behind closed doors, in municipal councils cleverly instituted by the municipalities or any other institutional chicanery."[26]

However, the fare was not the only reason for indignation. On the streets, throughout the country, claims for health, education and challenging the World Cup execution of were raised. Phrases like "We want FIFA standard education and health" were shouted and read throughout Brazil's five corners. The protests followed, with police repression, and the 2013 Confederations Cup was known as the *"Manifestations Cup"*.

It is noteworthy that, since 2008, there has been an increase in strikes and demonstrations[27]. However, it was in 2013 that people exercised their right to participation and directly intervened in the city's politics. This was the trigger that exposed the depletion of the Brazilian everyday lifestyle in the urban context and demonstrated the saturation of the low social investments model.

Even the political model was challenged, engendering what some have called a *representation crisis* in Brazil. Nowadays, a political reform is under discussion, especially regarding the need to fight the patronage politics that rules the Brazilian electoral system, based on private funding of election campaigns. Thus, one of the most controversial issues is the need for public funding of election campaigns in order to avoid political favours between business and the State.

The governments tried to respond by creating more popular councils. The federal government did with Decree n. 8.243 on the National Policy for Social Participation. This policy brought nothing new and, according to the new movements, it seeks to institutionalize social disputes, creating councils and conferences with no funds and no power of deliberation. Moreover, the composition of these councils is equally divided between government, business and civil society sectors, without respecting society's actual composition. In addition, the agenda items discussed in these councils are previously decided by the Forum of Councils, a body whose members are appointed by the Executive, i.e., it is completely linked to the institutionality and has no autonomy from the consolidated policies.

So, to some extent, the solution responding the June claims was one of the very reasons for the movement's latent anger: the obsolete institutions and mechanisms of this political model that, for considering themselves representative, do not allow direct popular participation when deciding the future of their daily life, especially concerning urban spaces.

Since it was announced, in 2008, that Brazil would host the World Cup, several movements, organizations and associations, especially during the Urban Social Forum, started a grassroots organization to monitor and report on the urban transformations undertaken while preparing for the mega event. Therefore, the Popular Committees for the World Cup were created in the twelve municipalities that would host the games (and in other cities that were on the event's way).

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26   MOVIMENTO PASSE LIVRE Ð SÃO PAULO. "Não começou em Salvador, não vai terminar em São Paulo". In: MARICATO, Erminia (et al). *Cidades Rebeldes: Passe Livre e as manifestações que tomaram as ruas do Brasil*. São Paulo: Boitempo: Carta Maior, 2013, p. 16.

27 According to data from the following research: http://www.dieese.org.br/balancodasgreves/2012/estPesq66balancogreves2012.pdf.

Nationally, the committees formed the National Association of Popular Committees for the World Cup (ANCOP).

The committees and ANCOP discussed the control of the road sites, evictions, the ticket prices, informal trade, security system and many other issues which determined the realization of the FIFA event. ANCOP's debates and struggles resulted in two editions of the dossier *Mega events and Human Rights Violations*[28], which reporting on violations brought by the World Cup concerning specific issues on housing, labour, right to information, popular participation and representation, environment and public safety. Under the question *Cup for whom?*, movements denounced the elitist nature of the mega events in Brazil and the transformation of Brazilian cities in business-cities.

Notably, in 2012, the World Cup General Law (Law n. 12.633/2012) was approved in a framework of permanent state of emergency, signing an agreement between the Brazilian State and FIFA. According to magistrate Jorge Luiz Souto Maior, the

"(..) act created an 'exclusive street' for FIFA and its partners, even excluding the possibility of functioning for establishments operating in these 'competition places', which covered a two-kilometre perimeter around the stadiums, if the trade in question relates in some way to the event."[29]

Therefore, several exceptions were created for hosting the world games. Consortiums for urban operations were largely used for interventions until the adoption of a Special Procurement Regime, which allowed shortening the bidding processes – something clearly falling under unconstitutional frameworks.

Countless demonstrations were organized, denouncing human rights violations under the realization of the World Cup, especially regarding the right to the city. ANCOP estimated that around 170,000 people[30] were evicted from their homes because of the sports events (2014 World Cup and 2016 Olympics). The legacy was a real estate speculation boom and uncontrolled increase in rents. According to the FipeZap index[31], since 2008, there was a 97% increase in rents in São Paulo and it reached a 144% increase in Rio de Janeiro.

Police repression and the logic of terror aimed at demonstrators were even more intense. Responding to the increase of anti-Cup social mobilizations, the Congress resumed discussing the "anti-terrorism legislation", clearly intending to halt social protests and criminalize this struggle[32] - the bill's processing was suspended because of social protests. In Rio de Janeiro and São Paulo, for instance, using masks in protests and manifestations was banned by the legislation.

The logic to combat terrorism by fighting the internal enemy, that is, the population, is not new. The World Cup left as legacy a highly militarized State, especially trained to act against demonstrations and daily repressing the life in urban peripheries. Police are still on attack, with unfounded arrests, torture, executions and disappearances that fall directly over poor young people, especially the afrodescendants population.

Nowadays, we can say the police has a major role in reordering territories where the crime incidence is higher, aiming at reducing armed conflicts in touristic and real estate interests' areas. Pacifying Police Units (UPPs), established in Rio de Janeiro, are examples of this territorial reorganization

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28 Available at: http://www.portalpopulardacopa.org.br/index.php?option=com_k2&view=item&id=198:dossi%C3%AA-nacional-de-viola%C3%A7%C3%B5es-de-direitos-humanos.

29 SOUTO MAIOR, Jorge Luiz. "Lei Geral da Copa: explicitação do estado de exceção". In: JENNINGS, Andrew (*et al*). *Brasil em jogo: o que fica da Copa e das Olimpíadas?*. São Paulo: Boitempo: Carta Maior, 2014, p. 35.

30 PORTAL POPULAR DA COPA E DAS OLIMPÍADAS. "Remoções Forçadas para Copa e Olimpíadas no Brasil serão tratadas em sessão do Conselho de Direitos Humanos da ONU". Available at: http://www.portalpopulardacopa.org.br/index.php?option=com_k2&view=item&id=355:remo%C3%A7%C3%B5es-for%C3%A7adas-para-copa-e-olimp%C3%ADadas-no-brasil-ser%C3%A3o-tratadas-em-sess%C3%A3o-do-conselho-de-direitos-humanos-da-onu.

31 Available at: http://www.zap.com.br/imoveis/fipe-zap/.

32 For more information on the laws, see: http://apublica.org/2014/03/leis-antiterrorismo-preocupam-movimentos-sociais/.

under the extreme control of the State's coercive apparatus. It should be noted that as issue currently debated is the police demilitarization - which was already recommended by the UN in 2012[33].

The stadiums, built largely with public investments, are big "white elephants" and they already seem unnecessary for the Brazilian reality. As an absolute example of irrationality, Arena Pantanal was built in Cuiaba, with seating capacity for 41,000 people in a city where there is no professional team and the average public in games is a third of the Arena's capacity. Another example occurs in Brasilia, where there is team in the first division to guarantee and pay for all the investment allocated in the Mane Garrincha Stadium. To illustrate their lack of usefulness, the Manaus stadium might become a prison or even a shopping centre.

Regarding this irrationality, the great urbanist Erminia Maricato states:

"In Brazil, the absurd costs and sizes of the stadiums built for the World Cup are noteworthy. In Porto Alegre, the reform of the Beira-Rio stadium reform was estimated to cost R$ 300 million, of which R$ 271.5 million came from BNDS - National Bank for Social Development – loans to Andrade Gutierrez construction company. In Manaus, the biggest stadium built in Brazil's Northern region, with capacity for 40,000 people, was demolished to build another one with capacity for 44,000. The demolition cost about R$ 32 million coming from public funds, and the new stadium cost R$ 500 million[34]

The mobility transformations justified by the sports mega-events served only the downtown-stadium-airports itinerary, i.e., the one required by tourists, without prioritizing the workers' daily life in these cities. Instead, what can be seen in people's everyday life are bus lines extinctions without previous notice, subways and trains with exhausted capacity and the reduction of IPI – Tax on Manufactured Goods – to strengthen the automotive industry in the country. Favouring the individual transportation model over a public one with greater capacity is clear and perceptible in any region of the country. Regarding the logic of cities built for cars, Erminia Maricato says:

"The tax exemption for cars and the ruin of public transportation made the number of cars in the cities double. In 2001, the total number of cars in twelve Brazilian cities was 11.5 million united; in 2011, it rose to 20.5 million. In that same period and in the same cities, the number of motorcycles increased from 4.5 million to 18.3 million units. Traffic congestions in São Paulo, where 5.2 million cars daily circulate, can reach up to 295 kilometers. (...)"[35]

better working conditions and wage adjustment. During this strike, which lasted five days, the Union of the Metro System Workers proposed liberating the subway turnstiles, so public transportation would not stop, thus ensuring the free movement of people and guaranteeing the right to strike. The government of the State of São Paulo responded both the proposal and the strike with harsh repression through non-lethal police equipment. The strike resulted in the layoff of 42 people and exposed the saturation of the public transport system: the city was chaotic during those days.

The atmosphere of demands did not cease with the end of the World Cup. Recently, urban movements have been using the tactic of occupying vacant urban land. Not only housing movements but also movements that challenge the urban transformations stood out. That is the case of Occupy Estelita,

33   Portal G1. "Países da ONU recomendam fim da polícia militar". 2012. Available at: http://g1.globo.com/mundo/noticia/2012/05/paises-da-onu-recomendam-fim-da-policia-militar-no-brasil.html.

34   MARICATO, Ermínia. "A Copa do Mundo no Brasil: tsunami de capitais aprofunda a desigualdade urbana". In: JENNINGS, Andrew (*et al*). *Brasil em jogo: o que fica da Copa e das Olimpíadas?*. São Paulo: Boitempo: Carta Maior, 2014, p. 23.

35   MARICATO, Ermínia. "É a questão urbana, estúpido!" In: MARICATO, Erminia (et al). *Cidades Rebeldes: Passe Livre e as manifestações que tomaram as ruas do Brasil*. São Paulo: Boitempo: Carta Maior, 2013, p. 25.

an occupation of the José Estelita dock, in downtown Recife, organized by several sectors of the popular movement –, that contests the area's renewal project for real estate purposes.

Housing movements, in addition to demanding more housing, denounce through occupations the absence of social destination to vacant lands and the private sector invasions of public lands[36].

The Homeless Workers Movement (MTST), the main stakeholder behind these occupations, explains the context of such direct actions:

"The Movement's recent strengthening is linked, paradoxically, to the side effects of the economic growth. The construction industry received government incentives, mainly through BNDES, and was indirectly benefited by the relative provision of consumer credit. The housing market heated up and contractors enlarged their assets and real estate speculation skyrocketed.

"Although this issue might seem distant from practical life, the effects were directly felt by poorer workers. Most periphery residents do not own their homes and depend on rent. With the real estate boom in São Paulo and other metropolises, the rent value has brutally increased."[37]

Notably, in Brazil, there is a consideration in dispute between the so-called "old" and "new" politics of the social movements. The "old" politics is integrated with the institutional participatory system, i.e., institutionalized instances where urban reform issues are addressed in a general and abstract manner, favouring the representative democracy. On the other hand, the "new" politics favours new, more horizontal forms of concrete, collective organization that do not believe in

transformation through institutions. The "new" politics would be one of genuine participatory democracy.

Yet, regarding this new moment in the Brazilian situation, Pedro Fiori Arantes states on popular organization:

"One of the urban reform limitations from the previous cycle was fragmenting the popular struggle in sectorial struggles that go knocking from door to door on offices to ask for equally fragmented programs. Now they are interested in knocking on the big doors. We cannot let the June uprisings force being directed at sectorial policies and their councils, funds and instruments. The city is one. We learned in the previous cycle the limits of the institutional struggle. We know how to use it when necessary, but, given the recent journeys, we have seen that gains can be obtained otherwise – by an unexpected and radical way"[38]

So far, occupations are being maintained and they resist through many street demonstrations and pressures over public bodies, bringing together different sectors of urban movements under the challenging of the city model and the direct democracy banner.

Finally, it is important to understand that, since 2013, began a period in which struggles concerning different urban issues are unified under the model of city that we want. Therefore, if, previously, the movements strictly struggled for their own issues, now it is possible to openly identify the struggle for the right to the city a factor congregating all sectors.

It can be said that, last year, Brazil experienced one of the most agitated periods in its recent history. However, we cannot measure all the consequences emanating from this process, since we don't know whether it has finished or not.

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36 BOULOS, Guilherme. "Quem são mesmos os invasores?Ð. Folha de São Paulo. 2014. Available at: http://www1.folha.uol.com.br/colunas/guilhermeboulos/2014/08/1504127-quem-sao-mesmo-os-invasores.shtml.

37 MOVIMENTO DOS TRABALHADORES SEM TETO. "O que quer o MTST?" In: JENNINGS, Andrew (*et al*). *Brasil em jogo: o que fica da Copa e das Olimpíadas?*. São Paulo: Boitempo: Carta Maior, 2014, p. 85.

38 ARANTES, Pedro Firori. "Da (Anti) Reforma Urbana brasileira a um novo ciclo de lutas nas cidades". Available at: http://www.correiocidadania.com.br/index.php?option=com_content&view=article&id=9047%3Asubmanchete091113&catid=72%3Aimagens-rolantes&.

The São Paulo Urban Context

As a methodological choice, we will address the issues concerning the right to the city in São Paulo since the Luiza Erundina administration (1989-1992), the first considered a popular and democratic administration that, in fact, sought to implement policies aimed at guaranteeing the full exercise of the right to the city with social movements as actors.

It is noteworthy that, since then, the exercise of the right to the city in São Paulo has had its ups and downs, which do not necessarily occur at different times considering the city faces actions that affirm it and actions that violate it. This means the progresses and setbacks cannot necessarily be defined in a chronological order and they are not necessarily related to each municipal administration.

In this regard, we will discuss the following topics that we consider fundamental to think over the current status of the right to the city in São Paulo, its obstacles and challenges:

- The democratic management of the city;
- Housing and land tenure policy;
- Dispute of territory and urban planning model;
- Privatization of public spaces.

Democratic management of the city

The democratic management of urban and housing policies in the municipality of São Paulo municipality is a major challenge given the city extension and the various interests expressed in its territory. In this study, we will address the elements concerning the processes of drafting and reviewing São Paulo Master Plan, the functioning of the Municipal Housing Council and the Municipal Council for Urban Policy and the (non-) application of the Neighbourhood Impact Study.

The 1988 Federal Constitution determines that the municipality is an independent federal entity, responsible for drafting and implementing the urban policy. It also states that the

Master Plan is the basic instrument for the urban development policy, and the City Statute says the Master Plan should be developed in a participatory way, involving all social segments. With this in mind, São Paulo approved in 2002 Municipal Law n. 13.430, establishing the Strategic Master Plan for the City of São Paulo. This plan incorporates several urban reform agendas in Brazil, of which the following are worth mentioning:

- the establishment of Special Zones of Social Interest in occupied areas for land tenure regularization, and in empty areas for producing affordable housing and popular market[39];
- the recovery of urban land value by regulating the onerous concession of the right to build[40];
- providing a housing policy for the city centre;
- institutionalizing a system for democratic urban management;
- providing the Neighbourhood Impact Study instrument.

In 2006, however, the process of democratic and participatory planning in the city suffered a hard blow when the Executive branch submitted a bill to the City Council intended to significantly alter the current Master Plan without conducting a participatory process allowing society to actually interfere in its preparation. Therefore, the organized civil society created the People's Forum for Defending the Master Plan, which, after several attempts to participate in the Plan's reviewing process, filed a lawsuit, through several entities, in order to prevent the bill proposing the Plan's revision from following the legal channels in the legislative municipal chamber. They aimed for a favourable resolution that, coupled with strong political pressure from many social groups, resulted in the discontinuity of the revision process. In 2013, the current administration

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39   Criticizes the amount and the location of urban vacuum ZEIS.

40   Criticizes the value of the counterpart and the calculation formula in the new Master Plan submitted to City Council.

started to conduct a new revision of the Plan and the bill was submitted to the City Council.

The Municipal Housing Council was created in 2002 by Municipal Law n. 13.425, approved weeks before the adoption of the 2002 Strategic Master Plan. It is characterized by its decision-making process and the election of its members. The council is responsible for managing the Municipal Housing Fund, among other duties. The Council was effectively established in 2003 and, until 2011, it was an important space for debates and resolutions on housing policy, having the following composition[41]:

- Thirteen (13) representatives of the São Paulo Municipality, including:
- One (1) representative from the State of São Paulo Department of Housing;
- One (1) representative of the State of São Paulo Housing and Urban Development Company (CDHU);
- One (1) representative of the Federal Economic Bank (CEF);
- Sixteen (16) representatives of community and grassroots organizations linked to housing, directly elected;
- Two (2) representatives from universities connected to the housing issue;
- Two (2) representatives from professional organizations connected to the housing issue;
- One (1) representative of construction workers' trade unions;
- Three (3) representatives of employers' associations or unions from the production chain of the construction industry existent in the municipality;
- Two (2) representatives of organizations that provide technical assistance in housing matters;
- Two (2) representatives of the federations of workers;

- Two (2) representatives of non-governmental organizations working on the housing issue;
- One (1) representative of the managing board of professional categories connected to the housing issue;
- One (1) representative of the managing board of the law professional category.

As mentioned, São Paulo also has a Municipal Council for Urban Policy, a body of social monitoring and popular participation in the urban development policy. The Municipal Council was established by the Master Plan and does not have a decision-making feature – it was established just as an advisory board to the rulers. Civil society representatives are partly elected and partly appointed by the government, which means an actual impossibility for this body to independently perform social control of the urban policy.

Therefore, we believe that, although there is an important body of popular control and participation in urban policy, it still needs to be improved to meet its goals of ensuring the full exercise of the right to the democratic management of the city of São Paulo. It is worth mentioning, however, that the ongoing Master Plan bill improves the Council's provisions, ensuring the election of all civil society members, although the bill maintains the council's advisory character.

São Paulo is one of the largest cities in the world, with a 1.530 km⁂ extension and 10.886.518 (ten million eight hundred and eighty-six thousand and five hundred and eighteen) inhabitants (IBGE 2010), hence, one of the main challenges for its management is the city's decentralization. In this regard, since 1990, the City's Organic Law provides, in Article 77, that the municipal administration will be exercised on the local level through subprefectures, according to the legal requirements, which will defining their functions, amount and territorial borders, as well as their powers and the subprefect's election process.The process of administrative decentralization began during the Luiza Erundina administration (1989-1992). According to Professor Maria Lucia Martins Refinetti:

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41 For more information, see: http://www.gaspargarcia.org.br/noticia/conselho-de-habita%C3%A7%C3%A3o-da-teoria-%C3%A0-pr%C3%A1tica.

"In this context, the Special Secretariat for Administrative Reform was created, which was then beginning its work with a municipal structure composed of seventeen departments and twenty regional administrations. The developed proposal should comply with the purpose of democratization and efficiency, with a structure and an operating mode organized from the user's perspective, from their needs, i.e., establishing a structure from the services produced and made available.

"Thus, a first issue was to overcome the segmentation - different departments dealing with different "chunks" of problems - which results, in many situations, in overlapping functions and, in others, in being uncertain about its responsibilities. Another issue was to shorten the decision-making path."[42]

Until 2002, the administrative decentralization in São Paulo was conducted by regional administrations, which, although are decentralized bodies, lack political autonomy and their own budgets, in addition to not relying on any instance for popular participation and social control in their structures. With Law n. 13.399 of 2002, 31 subprefectures were created in the city with the following responsibilities:

- to become regional bodies of direct administration on sectorial and territorial levels;
- to establish mechanisms to democratize public management and to strengthen the existing forms of participation on the regional level;
- to plan, control and implement local systems according to policies, guidelines and programs established by the central authority;
- to coordinate the Regional Plan and the Neighbourhood/ District (or equivalent) Plan, according the guidelines established by the Strategic City Plan;
- to create, with neighbouring subprefectures, intermediate levels of planning and management, when the subject or the public service in cause require treatment beyond the subprefecture's territorial limits;
- to establish articulated ways of action, planning and management with subprefectures and neighbouring municipalities, according to the government guidelines of municipal policies for metropolitan relations;
- to act as a local development agent, implementing public policies based on regional urges and interests manifested by the population;
- to widen the provision, to expedite and to improve the quality of local services according to the central guidelines;
- to facilitate the access to and enhance transparency of public services, bringing them closer to citizens;
- to facilitate intersectorial coordination among various segments and services from the Municipal Administration operating in the region.

Since the creation of the subprefectures, in 2002, institutions from the organized civil society and social movements fighting for urban management democratization in São Paulo strove to implement the Subprefectures' Councils of Representatives, bodies to exercise social control and popular participation in the decentralized policy developed by these municipal government bodies. In 2004, by the end of the Marta Suplicy administration, Municipal Law n. 13.881/2004 passed, creating the subprefectures' councils of representatives. This law, however, was never implemented because of issues regarding the formality in the bill's initiative, which led to a *direct action of unconstitutionality,* as the article on the "Nossa São Paulo" organization website explains:

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42   Available at: **http://www.usp.br/fau/depprojeto/labhab/biblioteca/ textos/martins_descentralizaerundina.pdf.**

"Law n. 13.881/2004, which created the subprefecture's councils of representatives, and Articles 54 and 55 of the City's Organic Law, which establish their duties, were challenged by the Prosecutor's Office of São Paulo in 2005 through a Direct Action of Unconstitutionality (ADI), noting that only the Executive branch can create laws establishing positions and functions in the public administration and the referred laws were created by the Legislative. The Court of Justice upheld the claims and deemed the law and its articles unconstitutional. There was an appeal and the case was referred to the Supreme Court (STF), which is waiting for the assessment of Minister Marco Aurelio Mello.[43]

Between 2005 and 2012 there was no progress on this front, since the bill initiative should come from the Executive branch and the municipal government at the time had no interest in implementing the councils. Only in 2013, with a new municipal administration, Municipal Law n. 15.764/2013 was approved, changing the structure of municipal departments by creating councils of representatives, now called Subprefecture Participatory Councils and elections for councillors were held in December 2013. Participatory Councils were created with the following responsibilities:

- to collaborate with the Coordination for Social and Political Articulation in its role of connecting with various segments of the organized civil society;

- to develop an integrated and complementary action for thematic areas of councils, forums and other forms of civil society organization and representation, that exert social control over public authorities, without interfering or overlapping their functions;

- to ensure that the rights of the population and public interests are met in public services, programs and projects in the region and to officially communicate the relevant bodies in case of shortcomings;

- to monitor, on their own territory, the budget implementation, the evolution of Performance Indicators for Public Services, the implementation of the Target Plan and other instruments of social control territorially based;

- to assist in the planning, mobilization, implementation, organization and monitoring of public hearings and other initiatives for popular participation developed by the Executive branch;

- to communicate with the councils for managing municipal public facilities in the district's and subprefecture's territory aiming to articulate actions and contribute to the coordination.

Neither the law that created the Participatory Councils nor Decree n. 54.156/2013, regulating it, are explicit regarding the council's deliberative or consultative character. However, by analysing the functions described above, it can be said, considering the verbs used - "collaborate", "develop", "secure", "monitor" and "maintain" -, that the council is purely an advisory body; since there are no provisions for approving plans, budgets, etc., or defining policies and government actions.

Although creating Participatory Councils linked to subprefectures can be considered an advance, the subprefectures continue to function just as departments and instances that allow decentralizing complaints and protests. They do not actually implement public policies and do not design what happens in their own regions. This means they are very limited, from the implementation of policies and transformation of reality point of view.

This could be reversed, for example, through direct elections for submayors, an issue that should be considered relevant for an actual decentralized and democratic management.

Regarding the Participatory Councils, they seem to suffer from the same problems of absence of deliberative legitimacy as do other councils, with the aggravating circumstance that they are linked to a fragile power structure.

Another key point that should be mentioned when it comes to the democratic management of the city of São

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43   Article published on March 20, 2013. Available at: http://www.nossasaopaulo.org.br/portal/node/26102.

Paulo concerns the obstacle represented by the timid way of implementing the Neighbourhood Impact Studies in the city.

The Neighbourhood Impact Study (EIV), provided in the City Statute Federal Law, is an important instrument in the process of granting urban planning permission for projects with great impact and it needs to include popular participation in their approval process, considering these studies have an economic impact. In São Paulo, although the 2002 Strategic Master Plan contemplated these studies, its drafting and approval process does not have a participatory character, not even the approval or assessment of this provision by the Municipal Council for Urban Policy.

Besides not bringing a participatory approach in the approval and drafting process, the Strategic Master Plan states that if the Environmental Impact Assessment (EIA) is prepared, there is no need for EIV elaboration, making its application completely ineffective in terms of being an instrument for popular participation in the process of granting licence for major impact projects. EIV could prevent the violation of the right to the city and ensure its compliance when implementing major projects.

Thinking over democratic participation in São Paulo, one can say that, although many participatory spaces do exist, there is a lot to conquer for achieving a concrete policy for popular participation, with actual division of powers in the city, especially on the representation and nature of these spaces.

A policy for actual participation cannot thrive based on advisory structures. Participation policy should aim at enabling the community to take part in decision-making processes. Otherwise, it is only meant to legitimize the decisions already made, without influencing any deliberations. It is worth mentioning that the lack of deliberations by the Executive without society's participation is a common factor and it does not constitute a legal problem.

In this scenario of advisory councils, the participatory structure is not translated into effective means for structural changes in the urban development model. Thus, even though the election of councillors representing civil society is presented as progress - which in theory could mean greater social control over public policy -, the policy content is not altered as a result

of participation, and councillors, even if they are legitimate elected representatives, do not hold deliberative capacity.

On the other hand, there are other forums where the private sector participates, in a complete contradiction with the civil society spaces, like the Council of the City, whose members were all appointed by the mayor.

Another obstacle for exercising the right to the city is the representation proportionality in the councils. In some cases, there is parity between the popular movements and private sector representatives, which actually reinforces an existing imbalance in society, since the private sector has greater power of deliberation, although it represents a quantitatively smaller proportion of society. The newly amended Municipal Council for Urban Policy, whose composition was altered by the new Master Plan (Law n. 16.050/14), exposes this issue – it is composed by four members from the housing movement and four members from the business sector.

It should be emphasized that popular movements have been thinking over the critiques on structuring popular participation in public policies in an institutionalized way, through councils. This reflection has changed how the right to the city movements and their struggle are organized, as previously mentioned.

Housing policy and land tenure

The housing precariousness and the legal tenure insecurity are key issues that must be addressed in the city of São Paulo to guarantee the exercise of the right to the city. According to data from the Municipal Housing Plan (2009)[44], tthere are 383,151 households in slums (favelas), 383,044 households in irregular plots and 83,283 households in tenement houses throughout the city.

The first initiative for regularizing land tenure in favelas as a social policy occurred during the Luiza Erundina administration

44   Available at: http://www.habisp.inf.br/theke/documentos/pmh/pmh_cartilha/index.html.

(1989-1992) – the mayor submitted bill n. 51/1990 to the municipal legislative chamber. This bill was not approved and regularization initiatives in São Paulo only came back to the agenda in the 2000s, after the adoption of the City Statute, as Patricia Cardoso de Menezes explains:

"In 1990, the Luiza Erundina administration drafted a bill indicating public areas occupied by favelas to implement the concession of use (PL 51/90). These areas amounted to 135 nucleus, 31, 000 families and 235 hectares. This project was designed to subsidize a program for regularizing municipal land tenure, replacing the municipal government repressive actions over favelas located in municipal public areas, for public policies that made the fundamental right to housing effective for low-income families who occupied these areas for housing purposes. This initiative, a pioneer, sought a paradigm shift in the role of the municipality when addressing the urban land irregularity issue, pursuant to the mandates of the new Urban Policy chapter in the Citizen Constitution, enacted in 1988.

"The bill submitted by the municipality was not adopted, despite having gone through many debates and amendments (Changing the concession for sale? How do we regularize common areas of irregular or clandestine plots occupied for housing?). Until 2000, there was no interest in resuming this bill, which represented a massive regularization proposal of municipal initiative and not the mere acting by case, according to manifestations from the governed ones. With the approval of the City Statute in 2001 (Law n. 10.257 and Provisional Measure n. 2.220), the instrument proposed in 1990 through Bill n. 51/90 to address tenure insecurity in favelas and neighbourhoods located in public areas - the right of use - was consolidated as a legal instrument suitable for regularizing public areas.

"An initiative of the Executive branch, bill n. 385/2002 was submitted to the City Council in 2002, originating Law n. 13.514, of January 16, 2003. This law was regulated by Decree n. 43.474 of July 15, 2003, being one of the

country's firsts to implement the Special Concession of Use for Housing purposes – CUEM – on the municipal level, after the enactment of the City Statute. The program was continued in the following administrations, Law n. 14.665/2008 passed, altering Law n. 13.514/2003, regulated by Decree n. 49.498/2008, bringing advances for the public policy implementation.

"Municipal Law n. 13.514/2003, inspired by Bill n. 51/90, initiated the implementation of one of the largest programs for regularizing municipal areas in Brazil.[45]

It is worth mentioning that the Paulo Maluf administration (1993-1996), following the non-approval of bill n. 50/91, implemented the "de-slumization" policy initiated in the Jânio Quadros administration (1985-1988), which, among other actions, evicted over fifty thousand people from Avenida Jornalista Roberto Marinho, on the southern area of São Paulo. The public areas that were expected to be regularized by the unapproved bill n. 51/90 were also subjected to evictions by the City during the same administration

However, since the adoption of the City Statute and the 2002 Strategic Master Plan, policies for regularizing urban land tenure were consolidated through ZEIS demarcation and the implementation of regularization programs, such as the ongoing programs[46] on:

- urbanization of favelas;
- regularization of public areas;
- urbanization and regularization of lots in private areas.

45 Patrícia de Menezes Cardoso, *Democratização do acesso à propriedade pública no Brasil: função social e regularização fundiária,* Thesis (Academic MA on Public Law), focus on Urban Law, by Pontifícia Universidade Católica de São Paulo (PUC-SP), 2010, pp. 215-216.

46 For more information, visit: http://www.prefeitura.sp.gov.br/cidade/secretarias/habitacao/programas/index.php?p=141.

It should be said, however, that consolidating a policy for land tenure regularization in the city of São Paulo did not prevent a number of hygienist actions that resulted in oustering poor people from the city centre and other areas of real estate interest, as we will see next.

In São Paulo, it is essential to mention the struggle of housing movements from the city centre, since they seek to implement the right to the city and the urban reform by disputing the central area of the city, where jobs are concentrated[47], fighting for improving living conditions in tenements and the implementation of a social housing policy for low-income people in downtown São Paulo.

The first law addressing the possibility of public power intervention in tenements, in São Paulo, was Law n. 10.928/1991, adopted in the Luiza Erundina administration, known as the Moura Law (the initiative came from parliamentarian Luiz Carlos Moura).

According to Thais Cristina Silva de Souza,

"During the years of the Paulo Maluf and Celso Pitta administrations (1993-2000), we determined that housing programs for the tenements population just like the works initiated the previous administration, of Luiza Erundina, were not continued.

"It was a period of countless demonstrations to pressure the municipal government to focus on the housing issue in tenements and to initiate a program assisting this population."[48]

The author states that the following administration (2001-2004), of mayor Marta Suplicy, continued the actions undertaken during the 1989-1992 administration. In the last decade, the municipality continued acting in tenements through other programs. However, according to researcher Luiz Kohara, from the Centro Gaspar Garcia de Direitos Humanos, despite the municipal actions, the situation still is completely unsatisfactory, because the families were evicted from the tenements without the housing issue being properly dealt with, making the situation of exploitation and insecurity still is a reality to those families.

"It seems incredible to realize that the problems that existed in tenements in the early 20th century, as showed by studies and newspapers of the time, are still the same these days. Among them, it is possible to highlight the huge concentration of people in small spaces; one single room used as housing; environments with no ventilation or illumination; use of collective bathrooms; damaged sewer facilities; lack of privacy; and the fact that they are part of a highly profitable housing rental market.

In addition to these aspects, tenements maintain the characteristics of being predominantly located in the city's central districts, presenting different situations of illegality and their population does not have sufficient income to access adequate housing. The tenements, differently from favelas and other precarious housing, are hardly visible in the urban landscape, because they are generally buildings that were used as single-family houses, but currently shelter dozens of families. Logically, they become visible whenever there is real estate interest in the region where the tenements are installed, because their population is the first to be evicted. In the last 20 years, Centro Gaspar Garcia de Direitos Humanos alone accompanied over 200 collective evictions of tenements in central districts.

In a 1998 study on the revenue obtained in leases and subleases of tenements located in the Luz neighbourhood (here demarcated by Avenida Tiradentes, Rua Maua and Avenida do Estado), it was possible to determine the great exploitation occurring in the tenement rental market, which confirms information from other researches showing it is costly to live very poorly. On the

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47 Recent data from the City Government, presented in the review process of the Master Plan, estimates this region holds over 68% of the job supply in the city.

48　Thais Cristina Silva de Souza. *Cortiços em São Paulo: Programas/Vistoria/Relatos*. Master thesis presented at the Architecture and Urbanism College, Universidade de São Paulo, FAU-USP, 2011, p. 68.

perimeter, 92 properties used as tenements were found, where 765 families lived, with average rental value of R$ 13.2 by m✣, twice – or even more – the value compared to the one paid for single-family homes with good living conditions located downtown."[49]

The researches continues:

"Despite the struggle and the mobilization from the last 20 years, we can say that the countless expressions of precarious housing, the compromising of large shares of income and the social segregation suffered by this population are characteristics that make tenements a factor in the poverty reproduction and the widening of social inequality."[50]

It should be noted that implementing urban and housing policy in São Paulo never meant a rupture with two logics that prevent the full implementation of the right to the city. Housing programs, even when aimed at fighting housing deficit, have private property as structuring element, therefore, they reinforce it. Moreover, the city's land structure remains the same; the speculative retention of urban property is not actually challenged.

There is not, on the municipal level, a consistent debate regarding the changes in housing policy directions, a discussion that dissociates housing access and access to individual freehold. According to the Municipal Housing Department (SEHAB) website[51], the programs currently being implemented in the city are:

- Program My House My Life - Entities;
- Urbanization and regularization of lots in private areas;
- Regularization of lands in public areas;
- Urbanization of favelas;
- Mineral springs.

None of these programs has collective property or the right to housing as structuring elements, regardless of individual freehold, like, for example, the creation of a public housing stock with cheap rents for low-income families, granting lifetime use to women householders, which would enable exercising the right to adequate housing without reinforcing the individual freehold logic.

On the other hand, there are no concrete actions to ensure the compliance with the social function of property for used or underutilized properties in the city[52]. The City Statute, which establishes general guidelines for urban policy on the national level, determines that this policy should be conducted in order to prevent speculative retention of urban property, resulting in unused or underused lands, and presents the following instruments to make urban property owners comply with its social function: land parcelling, building and compulsory use, progressive municipal land tax (IPTU) over time, and expropriation.

According to IBGE, in 2011, the city had nearly 290,000 vacant properties[53]; whereas, in that same year, the housing deficit amounted to 130,000 families, according to the Municipal Housing Department. This shows the necessary urge to address the perverse reality of having a large number of vacant and underused properties and homeless people.

Despite the numbers and the 2002 Master Plan establishing criteria for distinguishing unused and underused property and providing the application of instruments to foster the

49   Luiz Kohara. *Cortiços: o mercado habitacional de exploração da pobreza*. Carta Maior, September 5, 2012. Available at: http://www.cartamaior.com.br/?/Editoria/Direitos-Humanos/Corticos-o-mercado-habitacional-de-exploracao-da-pobreza%0D%0A/5/25899.

50   Luiz Kohara. *Cortiços: o mercado habitacional de exploração da pobreza*. Carta Maior, September 5, 2012. Available at: http://www.cartamaior.com.br/?/Editoria/Direitos-Humanos/Corticos-o-mercado-habitacional-de-exploracao-da-pobreza%0D%0A/5/25899.

51 Available at: http://www.prefeitura.sp.gov.br/cidade/secretarias/habitacao/programas/index.php?p=141.

52   In 2013, the São Paulo municipality created a Urban Development Department, which will tend the idle proprieties.

53   Data available at: http://www.cartacapital.com.br/sociedade/ha-mais-imoveis-vazios-do-que-familias-sem-moradia-em-sao-paulo and http://www.estadao.com.br/noticias/geral,sao-paulo-tem-290-mil-imoveis-sem-moradores-diz-ibge,650598.

social function of property in land use, over ten years after its approval, no owner was sentenced to mandatory parcelling, building or using the property. Therefore, nothing was done to fight this scenario of urban property speculative retention, creating no conditions for the full exercise of the right to the city and the housing deficit eradication.

Urbanist Raquel Rolnik exposes, when addressing the housing policy evaluation conducted by the United Housing Movements of São Paulo:

"The 2002 Strategic Master Plan of São Paulo has an advanced vision on building an inclusive city, regarding the right to housing for all. In its various articles, the plan defends housing, especially for the poorest people, in city areas provided with infrastructure, as well as land regularization and urbanization of favelas, and compliance with the social function of property. The plan proposes reversing the model of peripheralization and occupation of environmentally fragile areas, rupturing with the territorial social exclusion that we are subjected to.

"However, this has not seen its implementation. While instruments directed at the housing market were all regulated and implemented, articles on housing for the poor seem to have completely disappeared"[54]

This willingness, on society's part, to absolutely protect private property can be observed in a recent episode, when there was an attempt to achieve fiscal justice by adequating the IPTU to the urban policy objectives. The City Statute defines, as a guideline, adequating the instruments of economic, fiscal and financial policy and public expenditure to urban development goals, in order to encourage investments that generate overall welfare and enjoyment of goods by different social segments.

In this regard, in 2013, the Municipality of São Paulo submitted and the City Council passed a bill aimed at adjusting the IPTU value for generating a distribution that considered in more decisive way the property value when defining the tax fee to be applied; thus, the most expensive properties would pay proportionately more than cheaper properties, adapting the tax policy to the social policy.

Since the bill was submitted to the Legislative, the initiative suffered several attacks from society's most conservative segments and, when it passed, it suffered a lawsuit, submitted by the Federation of Industries of São Paulo (Fiesp), for the law to be deemed unconstitutional. The Court of Justice of the State of São Paulo granted a preliminary injunction to suspend the law's application, a decision maintained by the Supreme Federal Court, after the municipality appealed; thefore the measure was not implemented.

At the time, in an article published on the Estadão website, mayor Fernando Haddad compared the court decision preventing the adjustment to the "class warfare", in which the president of the Federation of Industries (Fiesp), Paulo Skaf, represented the "master's house" and the municipality, the "slave quarters". "The master's house does not allow inequality to be reduced in the city," he said. "That defeat is not on the Mayor, but on São Paulo[55].

Dispute the territory and city model

As previously mentioned, despite the implementation of a series of actions by the municipal government aiming to implement the right to the city after pressures from popular movements, São Paulo witnesses, at the same time that these policies are being implemented, the advances of the real estate market in the city, based even on State actions to open and valuate lands

54   ROLNIK, Raquel. "Plano Diretor de São Paulo: avaliação da União dos Movimentos de Moradia de São Paulo". Available at: http://raquelrolnik. wordpress.com/2013/05/29/plano-diretor-de-sao-paulo-avaliacao-da-uniao-dos-movimentos-de-moradia/.

55   Article published on December 20, 2013. Available at: http://www. estadao.com.br/noticias/cidades,apos-stf-haddad-descarta-aumento-do-iptu-em-2014,1111050,0.htm

in order to promote the development of the real estate market in the city. These actions daily culminate in evictions of families from their homes under the pretence of occupying areas of risk or environmental protection, or due to any urban intervention, as it can be verified in a testimonial available on the website of the "Observatory for Evictions in São Paulo" (Observatório das Remoções), composed by researchers from the Architecture and Urbanism College of the University of São Paulo (FAU-USP):

> *"The great amount of sectorial urban projects of metropolitan scale has socio-territorial and environmental impacts whose consequences are still difficult to be assessed. Among the urban projects and interventions planned and in progress, the municipality of São Paulo concentrates urban operations, road interventions ('rodoanel'), road expansions, avenues extension - great facilities linked to mega-events, implementation of parks, urbanization of favelas (Renova SP), Watershed Program, among others.*
> *"On one hand, as consequence of those, it can be noticed a dynamization of the real estate circuit and a speculative valuation of urban land, resulting in the intensification of disputes over urbanized land and localization. Although the interventions have a scale over large urban sectors, their grassroots problems are not addressed, only sporadically.*
> *"On the other hand, it can also be witnessed the increase in forced evictions of the low-income population, mainly people living in informal settlements and tenements. Often, a single project displaces thousands of families"*[56]

The displacements map below[57] was produced in 2012 by the researchers that compose the Observatory and it addresses the eviction processes derived from public action for the following programs and public works:

- Urban operations;
- Renova São Paulo;
- Parks;
- Mineral springs project;
- Monorail;
- Rodoanel.

Actions of social cleansing conducted by the José Serra/ Gilberto Kassab administration (2005-2008) in the city's central region, resulting in the violation of the right to the city in its many dimensions, are carefully analysed in a dossier produced by the Fórum Centro Vivo articulation, entitled 'Human Rights Violations in Downtown São Paulo: proposals and claims for public policy'[58]. The document presents the following issues:

- the human rights situation of homeless and low-income families in downtown São Paulo;
- the human rights situation of the recyclable material collectors from downtown São Paulo;
- the human rights situation of the people living on the streets in downtown São Paulo;
- the human rights situation of children and young people living on the streets in downtown São Paulo;
- the situation of the informal street trading in the context of the city's centre renewal;
- the criminalization of poverty, social movements and human rights defenders; and
- setbacks in the democratization of the central area.

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56   Available at: http://observatorioderemocoes.blogspot.com.br/p/o-observatorio.html.

57 The map is only available in Portuguese.

58 Available at: http://www.polis.org.br/uploads/977/977.pdf

Mapa das remoções

Legenda - Grau de risco de remoção

● Já removido
● Comunidade notificada ou em obras
● Comunidade em projeto definido

Legenda - Projetos

Operaçes Urbanas
Renova SP
Parques
Projeto Mananciais - Fase 1
Urbanização de favelas
Monotrilho
Rodoanel (a executar)
Rodoanel (já executado)

Fonte: Elaboração própria a partir de levantamento realizado por pesquisadores LabCidade e LabHab (FAUUSP) em parceria com Defensoria Pública (Núcleo de Habitação), SAJU/Faculdade de Direito-USP, Escritório Modelo da PUC SP, Centro Gaspar Garcia, CMP, UMM, FLM.

Setembro de 2012

Mapa das remoções

Núcleos já removidos, notificados ou em obras e/ou com projeto definido, sobrepostos aos projetos e intervenções urbanos em curso ou previstos (observações: estas ocorrências não representam a totalidade dos casos ocorridos, apenas os já levantados junto à Defensoria, Escritório Modelo, movimentos sociais e pesquisas específicas de pesquisadores da Universidade).

It is remarkable that an important part of the dispute of territory happens through land use regulation, more precisely, through the zoning instrument that reserves areas for implementing high-level projects, for example, ensuring the high land price by defining areas to apply urban indicators and parameters that result in an endeavour directed to people with higher incomes. This artifice has been used since the creation of the first zoning in São Paulo, in 1972.

Since the early 80s, as pioneering experiments in Recife and Belo Horizonte and later in Porto Alegre, popular movements fighting for housing started adopting the same strategy used by the real estate market, using the zoning instrument to reserve areas for housing, by demarcating the so-called Special Zones of Social Interest, as professor Fernandes Edésio affirms:

> "The law that created Pro-Favela in Belo Horizonte, in 1983, was a pioneer in the Brazilian context, for proposing a social and urban regularization program for favelas. It was responsible for introducing an original formula: combining the identification and delimitation of favelas as residential areas for social housing - originally called "special sectors" - in the municipal zoning context with the definition of specific norms of use, parcelling and occupation of the land in those areas, and the creation of political and institutional mechanisms for participatory management of the regularization programs. This formula has become a paradigm followed by several other cities, like Recife, Salvador and Porto Alegre, where 'special zones/areas of social interest' were/are being created with their own urban standards and subjected to an institutional participatory management process"[59]

In São Paulo, although pioneering experiments for demarcating urban areas as ZEIS date back to the early 1980s, only

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59 FERNANDES, Edésio. "Perspectivas para a renovação das políticas de legalização de favelas no Brasil". In: *Regularização Fundiária Sustentável: Conceitos e Diretrizes*. Raquel ROLNIK (org.). Brasília: Ministério das Cidades, 2007, p. 40.

20 years later, popular mobilization succeeded in ensuring the ZEIS delimitation in the municipal zoning, with the approval of the 2002 Strategic Master Plan, that defined the following ZEIS:

- **ZEIS 1 -** aareas occupied by low-income population, including slums, precarious lots and housing projects of social interest or directed at the popular market, where there is public interest manifested by law or through regional plans or specific legislation, in promoting urban rehabilitation, land tenure regularization, social housing production and maintenance, including social and cultural services and facilities, public spaces, local services and trade;

- **ZEIS 2 –** areas where vacant or underused land plots or lots predominates, and that are considered, according to what is established in this law, fit for urbanization, where there is public interest manifested by law or through regional plans or specific legislation, in promoting urban rehabilitation, land tenure regularization, social housing production and maintenance, including social and cultural services and facilities, public spaces, local services and trade;

- **ZEIS 3 -** areas dominated by underused lands or buildings located in areas equipped with infrastructure, urban services and job supply, or in areas that are receiving these kinds of investments, where there is public interest manifested by law or through regional plans or specific legislation, in promoting and expanding the use of social housing and popular market (HMP), and in improving housing conditions for the population living there;

- **ZEIS 4 -** vacant land plots or lots, suitable for urbanization, located in areas of watershed or environmental protection, which are in the macro area for Conservation and Recovery, destined for social housing promoted by Public Authorities, with environmental control, to meet the housing needs of families displaced from risk and permanent preservation areas, or to de-densify popular settlements defined as ZEIS 1 by this law or regional plans or specific legislation, located in the same sub-watershed object of the Law for Protection and Recovery of Watersheds.

The implementation of ZEIS 2 and 3, zones to reserve area for social housing and popular market, despite significant examples of their application by housing movements and private initiative[60], has been criticized because part of the reserve created for social housing has been appropriated by the market for housing production to the popular market. This resulted in the low-income population (household incomes: 0-3 minimum wages, who constitute a priority in addressing the housing deficit) not accessing it; except for those with household incomes of over five minimum wages.

In this sense, the popular housing movement and the entities who fight for urban reform in the city submitted proposals to the Master Plan bill, when it was under development phase with the Executive branch, so ZEIS can reach the population receiving only 0-3 minimum wages, also determining that a certain percentage of these areas should target families earning 0-2 minimum wages. This dispute over territory is so intense that the substitute bill prepared in the City Council and submitted by the Executive creates the ZEIS 5 category for the housing production for the popular market, which was then approved.

However, the ZEIS demarcationguarantees neither its implementation nor the reserve of land for affordable housing. In the Master Plan revision process, in 2013, there were many complaints on ZEIS being appropriated by the real estate market for venture purpose other than those provided for the area.

"We lost at least two ZEIS that were definedin the Master Plan, which became high-standard properties. We have received housing from popular market only in one area, the region near Avenida Marques de São Vicente, and yet under the My House My Life program", said journalist Eduardo Fiora, who has lived for almost two decades in the neighbourhood.

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60 This statement can be confirmed in the PhD Thesis "Os Novos Instrumentos da Política Urbana: Alcance e Limitações das ZEIS", presented at the Architecture and Urbanism College of the University of São Paulo(FAU-USP), by Nisimar Martinez Perez Caldas. For the thesis, the author conducted case studies and on the implementation of ZEIS in the São Paulo municipality, from the 2002 Strategic Master Plan. Available at: file:///C:/Users/Paulo/Downloads/ TESE_ZEIS_pdf%20(1).pdf.

In the context of dispute of territory and of an urban policy that does not challenge real estate speculation and fails to diminish the housing shortage, occupations of empty buildings in São Paulo have spiked since the June protests[61]:

> *"Nobody can stand paying rent anymore. We are not committing any crime, we only want to improve our living conditions. They took over a hundred houses in this area and until now there was waste there. If nobody is going to use it, we will", unburdened construction worker Rooseveltion Gomes da Silva, 27, father of two, who, with his wife, pays R$ 400 rent in a three-room house. On Thursday (8), along with other families, a shed was built (...).*
> *Like him, nearly two thousand families occupied nine areas in the region in the past three weeks. Two of them are Recanto de Vitória, in the Granja Onoda area, and Povo Unido para Vencer, located in an ancient ploy of the Aristocratic Club, where a linear park should have been built during the Gilberto Kassab administration (PSD).[62]*

Occupying empty buildings is not a new phenomenon in São Paulo, it has been used for decades as a strategy to fight for the right to the city and the right to housing. This struggle strategy being more used can be seen as an advance in people's awareness that rights must be conquered, even if they are not guaranteed by the State.

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61   This phenomenon was described at http://psolsaopaulo.org/2013/08/cresce-o-numero-de-ocupacoes-no-extremo-sul-de-sao-paulo/ and http://www1.folha.uol.com.br/fsp/cotidiano/164930-os-sem-teto-das-ocupacoes-nao-sao-quem-mora-na-rua.shtml.

62   Available at: http://psolsaopaulo.org/2013/08/cresce-o-numero-de-ocupacoes-no-extremo-sul-de-sao-paulo/.

The Right to the City in Colombia

Land-Use Regulation in Colombia

In the early 1960s, began a debate in Colombia on the need for an urban reform law. The discussion had many concerns, including construction of worker housings, protection of tenants, obligating municipal governments to issue regulatory plans, and the search for intervention instruments for the land market. The debate was stimulated by urban planners as well as economic agents, like the real estate and construction sectors, and influenced by a context of claims for the right to the city.

The different proposals from various sectors had some common features, such as: 1) public land control; 2) urban regulation for adopting mechanisms to fight urbanized lands retention – the so-called lots for gains; 3) developing a housing policy; 4) mechanisms for financing urban investments; and 5) mechanisms for recovering urban lands value.

After a 20-year debating process, only one project (the most timid one) managed to become a law, but it was declared almost entirely unconstitutional by the Supreme Court.

The main frameworks for the urban law development in Colombia are in the **Urban Reform Act (Law 9 of 1989)**, supplemented by **the Territorial Development Act (Law 388 of 1997)** and the **1991 Constitution.**

The Colombian Constitution establishes the basis for the organization of territory, dictating criteria and establishing territorial development plans undertaken by municipalities or districts. It also contains elements that communicate with the right to the city through the principles of social and ecological function of the city, allowing the imposition of obligations on property and the consecration of collective rights, that is, to collectively participate in the urban land value – land price increases resulting from the effort of the collective.

Subsequently, Act 388 of 1997 introduced the land management and planning issue in the constitution and presented the possibility of State intervention in the land market and participation mechanisms.

Its article 11 determines that land use plans should contemplate three components:

1. *The general component of the plan's , consisting of its objectives, strategies and long-term structural content.*

2. *The urban component, consisting of policies, actions, programs and regulations to guide and manage the material urban development.*

3. *The rural component, consisting of policies, actions, programs and regulations to guide and ensure proper interaction between rural settlements and the municipality, as well as the appropriate land use.*

The general structuring regulations brought by the Land Use Plans (POTs) are designed to ensure that the plan's objectives and medium and long term territorial strategies are achieved, but its rules can be exceptionally modified (art. 28 of the 1997 Act, art. 2 of Act 902 of 2004, art. 6 of Decree 4002 of 2004). POTs can also be revised and modified according to changes in territorial dynamics and the expiration of its components' terms, if all this is duly justified.

The plan has much prominence under Colombian law for its role as articulator of management and financing instruments, network infrastructure and urbanization costs and benefits[63]. But the rules for its elaboration are very technical, rendering society's participatory monitoring difficult[64].

In addition to the land use plans, there are other plans on different scales, like the Partial Plans that articulate urban development management and financing, into which public authorities seek to incorporate the private sector, so the burdens and the benefits from urban projects are shared. In this partnership, the role of public authorities is to issue guidelines while the private sector conducts the assignments.

Moreover, Act 9 of 1989 is an important milestone: it is the first law to address the irregular and illegal urbanization issue and to conduct a change in housing institutions. They:

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63 Santoro, p. 111.

64 Santoro, p. 101

"(...) abandon the supply model, where the State buys and sells developments, and turn to the demand one. In this model, the State concentrates its resources in supporting, technically and financially, the poorest families through direct subsidies for the demand – defined as families with income below four minimum wages – so they can access the housing offered by the market.

By reversing the roles - the State urbanizes but does not build houses, and provides funding and subsidies for people to purchase housing offered by the market -, companies like Metrovivienda would be responsible for creating land stocks and for urbanizing glebes where the private power develops projects to be sold through housing credit and State subsidies for the demand."[65]

The above-mentioned Metrovivenda "is an industrial and commercial company of the Bogotá City Council that promotes construction and acquisition of affordable housing in the city" and "acts as a real estate operator for the district, organizing, guaranteeing and articulating a diversified supply and demand for social housing"[66]

This company aims to meet the social housing demand and to implement housing projects, in addition to its duties as land bank.

The domestic armed conflict and urban issues

TThe analysis on the right to the city in Colombia must take into account the country's domestic armed conflict. However, this research does not intend to understand and clarify the causes and dynamics of this prolonged war, with its changing stakeholders, great extension and different peculiarities. We will use the reports of the Group for Historical Memory of the Colombia National Centre for Historical Memory to introduce the issue.

The armed conflict in Colombia is connected to land appropriation, use and tenure. Nevertheless, new problems were added to the old land problem, like drug trafficking, agro-industrial expansion, energy exploitation etc. It is also connected to the fragility of the Colombian democracy. When this country, marked by the historical authoritarianism in its political system, strangled the possibilities of exercising political power from forces not related to traditional parties and elites, this was used as justification for the armed conflict[67].

This history of violence has two cornerstones that stand out. The first one is "the violence" of the 1940s and50s, marked by the conflict between two political parties – Liberal and Conservative – that grew into an armed confrontation. The attacks on militants of opposing parties and their territories of influence, and on agrarian movements (in the 1920s and 1930s, there were peasant struggles and the landowners wanted "revenge"), resulted in many people fleeing from the countryside due to violence and hunger. This period was marked by a large number of homicides (the estimates vary, they are set around 180,000 people) and spoliations of land. In this context, peasant guerrillas and paramilitary forces emerge, fighting against bipartisan violence and for the protection of the citizens.

The military government, seizing the power in 1953 with the task of ending violence and chaos, attacked these organizations under the anti-communism logic typical of the Cold War period. Revolutionary guerrillas were created from these paramilitary forces and guerrillas, including FARC, EPL, ELN and others, emerging with political platforms concerning land reform, ending harassment by landowners etc. In the meantime, social and economic reforms were strongly attacked since the State did not prioritize them it prioritized the repression, marked by arbitrariness, abuse and extreme violence.

The second cornerstone is the violence employed in combating guerrillas, the "illegal" armed organizations, in response to the work carried out by FARC and ELN in the

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65   Paula Santoro, p. 103.

66   For more information, visit: http://www.metrovivienda.gov.co.

67   Report "Basta Ya!" (p.22).

countryside and the consequent expansion and growth of these organizations. Responding to the revolutionary guerrillas, which advanced and emulsified social mobilization, self-defence groups increased, becoming paramilitary groups supported by the military government to help the "counterinsurgency" fight.

"The explosion of the paramilitary phenomenon puts the crosslink between drug trafficking and armed conflict on the stage. This new procedure for funding drug trafficking was produced by the confluence of interests from three sectors: first, the economic elites who wanted to defend their heritage, through the organization that served as their front in Puerto Boyacá, the Association of Farmers and Ranchers of Magdalena Medio - ACDEGAM; second, the drug traffickers who sought to expand their illegal business and protect their laboratories and the coca leaf purchase from guerrilla extortion pressures; and, finally, the military, whose purpose was to attack the guerrilla and the domestic civil enemy. The last one can be determined by the report on MAS produced by the Office of the General Attorney (February 20, 1983). The monitoring entity documented that actually there was not just one group called MAS; this was a generic name under which acted the paramilitaries in Magdalena Medio, involving 163 people - 59 of whom were on active duty in the Armed Forces.

(...)

"It should be noted that, although this alliance was distinctly counterinsurgent, until mid-80s, in its dual role of emerging business elites and illegal businessmen, drug traffickers supplied with economic resources all stakeholders in the armed conflict. Drug trafficking organizations exploited armed actors and their disputes on behalf of their unlawful activity, but they also collided with the same actors for control over resources and territories[68].

The war becomes increasingly complex, with changes in territorial configuration.

"From 1996 to 2005, the war reached its peak, its maximum extent and victimization level. The conflict turned into a dispute by sword and fire for lands, territory and local power. During this period, the relation between armed actors and the civilian population was transformed. Instead of persuasion, intimidation or aggression, death and exile were used."[69]

"By 1999, these forces were an actual irregular army, with a particularly offensive character: they controlled new territories or strengthened their dominance over places they already occupied. The war had a new character: the occupation of territory by sword and fire, the massive involvement of drug traffickers in the paramilitary enterprise and a strategy for seizing local power and influencing national authorities. Therefore, while the 1980s were the decade of the guerrillas, the late 1990s and early 21st century were the years of paramilitary forces."[70]

Displacement appears as consequence of this war, which is filed with human rights violations and a large violence repertoire, whereas impunity and lack of acknowledgement, research and care by the State are predominant. Peasants, indigenous people and Afro-descendants are displaced because armed groups are disputing the territory for wealth, power etc. There are many civilian casualties, prompting a flight from the countryside with massive displacement.

"For years, the designation displaced connoted victims as vulnerable people, however, this understanding was facilitated since the official recognition of the existence of domestic armed conflict

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68   Id. 68.

69   Report "Basta Ya!" (p. 156).

70   Report "Basta Ya!" (p. 160).

and regulatory developments (Verdict T-025 from 2004 and follow-up judicial proceedings of the Constitutional Court, Acts 975 in 2005, 1448 in 2011- Law on Victims and Land Restitution).

"The experience shared by most people shows that displacement is not an event that starts or ends with forced flight or departure, it is a long process that begins with exposure to forms of violence like threats, intimidation, armed confrontations, massacres, among others. The flight is preceded by periods of stress, distress, suffering and intense fear, which in some cases lead to the decision to flee. This happened in the municipality of San Carlos, which could be generalized to other contexts where peasants exposed to the conflict were forcedly displaced: the war erodes their world. The presence of armed people shatters the certainties and routines that support the everyday life these victims know, therefore 'leaving, for some, is an attempt to reappropriate the life plan that has been alienated by armed actors'.

"The departure is usually follow by long and difficult processes in which people try to stabilize their lives, but, in most cases, they are described as experiences characterized by economic hardship, overcrowding, stigmatization, rejection and abuse. The experiences of arriving at unknown environments, often hostile and in precarious economic conditions, are added to the pain caused by events prior to the displacement, to the suffering caused by abandoning possessions, places, sacred sites and treasured beings"[71]

There is an abrupt life change with all its implications, from the material losses and emotional suffering to the "sense of dislocation, disorientation and strangeness"[72] when arriving in the city. This population reached major cities like Medellin (main receiver), Bogota and Cali. Until the 1950s, there was, to some extent, some sort of shelter and employment for those displaced by the industrial development occurring then and an intervention, although minimal, from the State to organize and "integrate" the areas occupied by displaced people.

But in the 90's and early 2000s, the new economic/political situation marked by neoliberalism and the decline of scarce public services and expenditures resulted in this displaced population being installed in settlements in peripheral regions, with undignified conditions, rendering them extremely vulnerable.

It should be noted that *"the conditions of standard and dignity of living for the Colombian population regarding health, education, housing and employment aspects, which together allow to build the future, through the issuance of laws and decrees (Law 100 of 1993, Act 30 of 1992, their regulating decrees and their definitions concerning employment, social security and guarantees, among other policies)were no longer responsibility of the State, but subject to negotiations by the market vicissitudes"[73].*

Public attention to this phenomenon was largely precarious and lacked care and protection. To this inefficiency and lack of any form of planning and reception, moral impunity was added, along with social complicity through silence, denial, minimization of the fact and blaming the victims[74]. To make matters worse, during the war, the media disseminated the idea that the people who came fleeing from the country were "suspects", "dangerous". This attempt to stigmatize and criminalize these people made their arrival even more difficult.

The city is reconfigured when country-displaced people.

For understanding the dimension of these displacements, 56 settlements were created in Medellin between 1995 and 2002 – although, in addition to those, displaced people surely also settled dispersed around the city - and around 10% of Medellin's population is composed of displaced people.

71 Report "Basta Ya!" (p. 296).

72 Report "Basta Ya!" (p. 298).

73   TOVAR, Carlos Alberto Torres (coord.). *Ciudad informal colombiana: barrios construidos por la gente*. 2009, p. 76.

74   Report "Basta Ya!" (p. 327).

The displaced people arrive, searching for a place, a house, and the recognition of their status. To address this situation, they organize themselves as victims of the armed conflict demanding the State's support to make their rights effective.

Nowadays, there are nearly 6 million displaced people[75] in Colombia. This means that a significant amount of the population lives under conditions of brutal socioeconomic decline. If a person managed to build a house, build a community, get some income with small sales etc., when displaced, he/she loses his/her housing, the network of neighbours, children lose school and study because their lives lack stability, families are separated, people are live with fear etc. Therefore, the living conditions suffer a radical deterioration. Moreover, if a person is displaced more than once, his/her ability to fight for rights and improvements is severely weakened. Thus, displacements cause material and life losses as well as emotional and moral damages, some of which are irreparable.

This situation was only officially acknowledged in 1997 through Act 388, which holds the State responsible to address the phenomenon of forced displacement . The law establishes measures to prevent forced displacements, as well as measures to care for and protect internally displaced persons. However, it does not successfully address the complex objective and subjective dimensions of the condition of displacement.

The displaced people also build the city, and if we consider the right to the city, their right to remain in the place they inhabit was violated first: its realization was prevented by the State for not guaranteeing these conditions.

Moreover, not only the State has omitted its role of ensuring rights, but has also been complicit to the violations. According to the report "Basta Ya!":

"The proven involvement of State agents as crime perpetrators is particularly disturbing for society, for the State as a whole, and for the agents themselves, given the particular level of legality and responsibility they

have. In addition to its direct involvement in Human Rights violations, all the cases documented by the GMH register, with a remarkable regularity, connivance and omissions from members of the police force with actions that violate human rights as well as alliances with powerful groups that, through violent methods, defend economic and political interests, or greedily seek access to more land and/or resources.[76]

Displacements can occur in two ways. The first one is the individual or "drop by drop" displacement, which happens when a direct threat occurs (because someone saw something, because this person is thought to be at the "service of the enemy", because he or she did not meet the demands of the armed group that dominates the territory, because he or she are members of a certain family, because armed groups want his/her house for war due to its location etc.). Normally this threat is made and the person is given from 24h to 36h to leave. This escape can even reach another country, because whoever makes the threat can be at both the departing point and the arrival point.

The second form is the mass displacement, with 50 or more people, occurring when there is an armed conflict with risks for the population. They can return to the territory when the conflict ceases or they cannot return, because if the territory is attacked, it is thought to be under enemy services. To destroy the "insurgents", these groups use terror (anyone can be exterminated, they write names on the walls as a form of threat etc.), fires, murders, sexual violence, etc. In these cases, there is no returning.

In the countryside, displacement makes it possible to change the land use from small family farms to industrial agriculture, mining and grenadier estates (latifundium), or its replacement for the coca agriculture. In the city, the areas are disputed "as

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75   System for Human Rights Information (*Sistema de Información sobre Derechos Humanos y Desplazamiento*) [SISDHES]; 1999 - 2012.

76   GMH. *¡BASTA YA! Colombia: Memorias de guerra y dignidad*. Bogotá: Imprenta Nacional, 2013. Available at: http://www.centrodememoriahistorica. gov.co/descargas/informes2013/bastaYa/BYColombiaMemoriasGuerraDignida dAgosto2014.pdf (p. 21).

havens for criminal activities; as platform for controlling other territories; as source of supplies and resources; and finally, as strategic corridor to other urban belts or even as connections to sea routes beyond the city"[77] etc.

The intra-urban displacement

The internal displacement movement occurs until the 2000s. Afterwards, the paramilitary groups (acting in defence of landowners, drug trafficking and economic interests against the militias) start undertaking a dispute against "insurgents" in the city, through the urban territory. For doing so, armed stakeholders take advantage of the power vacuum left by the absence of the State. Hence, the intra-urban displacement emerges, with "re-displacement" and the need to flee from place to place within the city, under the yoke of armed groups that begin to violently subordinate communities and use the regions where displaced people are located for their criminal activities.

Thus, urban space is no longer a "spectator" of the war, it becomes part of the conflict; and displacement has become one of the challenges faced by Colombian cities.

The report of the Group for Historical Memory of the National Commission for Reparation and Reconciliation, entitled "The invisible fingerprint of the war. Forced displacement in Comuna 13" (2011), brings light and recognition to this unknown urban phenomenon.

Nevertheless, displacement is still thought as a rural-urban phenomenon, not a movement from one neighbourhood to another or from one commune to another. The case of Comuna 13, an urbanization process driven by the armed conflict, is emblematic to demonstrate how these people who are trying to get a place in the city must, once more, leave everything they had built and achieved. Therefore, the war determines sociability in urban areas

This starts happening because *"poverty, access difficulties, lack of infrastructure and mobility, continuous robberies, sale and consumption of drugs and domestic violence drew militias, guerrillas and paramilitary groups, each with tempting offers of order and security for the people. Consequently, whereas the population lacked the State presence, armed actors ironically became their functional substitute."*[78]

The State is absent and does not prevail over these territories, neither guaranteeing people's basic rights nor fighting the armed groups that dominate these regions.

"The peripheral character of this area for society and the State contrasts with its centrality of the armed actors. This is an actual cycle that has been repeated for decades: first, the militias expelled the common criminals, then the popular militias were challenged and displaced by the guerrillas, and these, in turn, were fought and driven away from the area by paramilitary groups."[79]

The stigmatization suffered by these territories extends to their inhabitants who are considered potentially dangerous, in a process of criminalizing the victims[80]. And when the State acts, it does so through military operations that also are excessively violent and performed in collaboration with the paramilitaries under the justification to "free the areas from the guerrillas domain", therefore, conniving with the war. The Orion operation is an example: it was conducted by the army and the police in the commune 13 of Medellin.

Thus, intra-urban displaced people live in a situation of extreme violence, subject to killings, intimidation, eviction

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77   Report... (p. 14)

78   "La Huella invisible de la guerra. Desplazamiento forzado en La Comuna 13". Report of the Group for Historical Memory of the National Commission for Reparation and Reconciliation (*Grupo de Memoria Histórica de la Comisión Nacional de Reparación y Reconciliación*). 2011. Availabe at: http://www.centrodememoriahistorica.gov.co/descargas/informes2011/informe_comuna13_la_huella_invisible_de_la_guerra.pdf (p. 13).

79   Report.... (p. 14).

80   Report.... (p. 17).

orders, forced recruitment, disappearances, etc., in addition to social and economic relegation, exclusion and the State omission or its direct action in the violence suffered.

An emblematic case of the war implications is the fire that occurred in Comuna 13, in the neighbourhood of Salado, as a paramilitary strategy to consummate their territorial dominance in a dispute with the militias. This dramatic episode led to a massive displacement of 170 of the 200 families living in the area where the paramilitary groups raided and did so with excessive violence (fire in nine ranches, threats, murder and abuse) to the population.

An emblematic case of the war implications is the fire in Comuna 13, in the neighbourhood of Salado, as a paramilitary strategy to consummate their territorial dominance in a dispute with the militias. This dramatic episode led to a massive displacement of 170 of the 200 families living in the area where the paramilitary groups raided with excessive violence (fire in nine ranches, threats, murder and abuse) to the population.

Furthermore, in this case, there was a legal and political dispute for these people to be recognized as displaced people. This illustrates that victims of urban displacements lack institutional recognition concerning truth, justice and reparation. For a long time, this reality has remained invisible or underestimated, "despite its huge disaggregating impact both on community and individual levels", involving material losses, moral and psychosocial damages, as well as effects on the body (diseases), the family, the social fabric, the collective action and life projects.

Moreover, initiatives of popular resistance to the domain of military groups are systematically co-opted, persecuted or eliminated, as explained by the above-mentioned report:

""Many of these leaders, here and elsewhere, have recently fallen. Violence against community leaders, who are perceived as hostile or at least as inconvenient, is one of the most frequent and striking forms of punitive action from the organized crime against the people's social and political organizations. They shatter the will to participate, resist, interact with the broader scenarios of the institutional or political world - results that were

calculated by the criminal forces. To recover what we might call 'loss of leadership' can take years and even decades. Indeed, leaders embody aspirations, processes and legacies. To let them quietly perish by bullets, i.e., without activating all society's resources to counter the murderous branch, is sacrificing democracy's participatory and deliberative vocation"[81]

Thus, intra-urban forced displacement violates human rights in several dimensions, regarding not only life, freedom, basic social rights, integrity, but also the right to the city "because villagers have their right to housing, access and use of social spaces and the right to reside constrained. This displacement often leads to a particular form of exile that has great impact on the lives of individuals and families and on the social fabric".[82].

Organizing the war-displaced population under the banner of memory, truth, justice and reparation led to demanding land-use regulations from the public authorities. For instance, in Comuna 8, the population demanded that, if they had to leave their territory due to vulnerability, they should be relocated in the same place or nearby, in order to not be far from services, transportation, etc., and they succeeded in their claim. They also demanded for the improvement of neighbourhoods being articulated with land tenure security. In addition, there are demands regarding their peasant origin and on ways to relate with the territory, like orchards, food security, water, etc. However, the recognition and organization of the displaced people to fight for rights is uneven and occurs in various degrees depending on the territory.

Thus, in the last 15 to 20 years, public authorities had to recognize that the internal armed conflict has reshaped the urban space, that new demands for rights were created based on the habits of the people who fled the countryside, and that this population has united with the urban popular movement in their claims.

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81   Report... (p. 18).

82   Report... (p. 41).

The impact of neoliberalism and the new global urbanization context on the construction of the urban space in Colombia

In order to analyse the urban space construction in Colombia, we need not only an effort of local or regional understanding of the phenomenon of structuring territories, either urban or rural, but also to analyse the characteristics of the economic globalization and its impact on urbanization, which makes displacement a structural problem.

As we saw, since the 1980s, the domestic conflict consolidates a paramilitary project and the drug trafficking presence. Builes (2010)[83] describes the following situation:

"Therefore, the 1980s, 1990s and early 21st century are years remembered for the great magnitude reached by the issue of forced displacement of rural populations to the cities and the intensification of the social and political armed conflict which 'sometimes is nothing more than the manifestation or continuity of old conflicts and unresolved problems. The forced displacement is an excluding development model' (Bello, 2003)."

Thus, the Colombian social and political conflict also encompasses stakeholders who are not necessarily armed, but who are capable of guiding and defining strategies for land occupation and eviction and, consequently, for social development. Among these, it is worth mentioning the multinationals related to natural resources and biofuels and the drug cartels protected by broad political sectors on various government spheres. Therefore, these are key sectors to understand the dynamics of forced migration in Colombia. Researcher Martha Bello illustrates these relationships:

"The forced displacements map clearly indicates that the areas where most Colombians were expelled from are those that reverse the strategic value, especially those where megaprojects are implemented. Some of these megaprojects are:

- Atlantic-Pacific dry canal, interconnected with the Buenaventura Medellín rail and the roads from the Pacific to Medellin and Pereira;
- The Urabá-Maracaibo road;
- The intercommunication between Rio de la Plata – Amazonas – Napo – Putumayo – Tumaco, which would connect Tumaco to Manaus and Belem do Pará, connecting the Pacific and Atlantic coasts;
- Ituango hydroelectric in the Paramillo knot;
- The Llano trunk that would join the Marginal de la Selva Highway to communicate with the Venezuelan and Ecuadorian borders by land;
- In Magdalena del Medio: Magdalena trunk, La Paz Trunk, fluvial-technological and environmental industrial free zone and a bridge between Barranca and Yondó.

The areas valued as corridors are also considered strategic *(transit of weapons, movement of armed forces, circulation of illicit goods etc.), including borders, areas for withdrawal of armed groups and areas surrounding centres of political decision (...)* ***Those territories rich in mineral and energy resources are places that draw diverse interests and become zones of dispute.***[84]

The Colombian urbanization process has lacked adequate guidelines, well-defined planning processes and public policies consistent with the dimensions of the expansion of urban centres, and was defined instead by interests of armed and market-oriented sectors. The absence of an integrated national,

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83   BUILES, Gloria Marcela Gómez. *Desplazamiento forzado y periferias urbanas: la lucha por el derecho a la vida en Medellín*. 2010.

84   BELLO, Martha. *El desplazamiento forzado en Colombia: acumulación de capital y exclusión social*. Avaliable at: http://www.uasb.edu.ec/padh/revista7/articulos/martha%20bello.htm (Accessed on June 18, 2014).

regional and local policy for planning and implementing urbanization elements, like infrastructure, results in the process developing with brutal inequalities, similar to what happened in other cities in Latin America.

IIn the 1980s, the intensification of the armed conflict and the forced displacement was a crucial factor for the government to decide to take control over the cities development, through the planning concept. Yet, planning was harshly criticized in the 1990s, because of the rise of neoliberalism, with strong boost by the Washington Consensus and the International Monetary Fund (IMF) recommendations and its model of public assets commodification, like companies that provide public services. The result was the deterioration of the planning model and the insertion of the urban management concept in the debate, whose main exponent is the Land Use Regulation Plan (Act 388 of 1991) as an urban planning instrument[85].

Urban planning in Colombia has always been influenced by foreign rulings and, until today, is characterized by technical complexity and centralization, i.e., distancing popular participation from its development.

The redefinition of the Colombian territory and its connection to the production and commercialization needs demanded by the neoliberal model generated enormous political, social and cultural costs.

Colombian cities are defined by the service economy and they were (and still are) built on a dual process of formality and informality. Until the late 1980s, the formal structure has predominated, with the creation of neighbourhoods for middle classes; this was struck by the population overflow, resulting in population growth and migration as marks of the country's urban centres.

TThe "State modernization" process, in fact, reaffirms the exclusive and monopolistic origin of land use. The neoliberal model created a favourable context for big business, exportation, agribusiness, financial and tertiary sectors at the expense of the rural sector and small and medium-size industries. Applying an economic model that favours industry, trade and capital accumulation at the expense of the peasant economy and that requires infrastructure like roads, transport and energy for its development, results in greater land concentration.

"The model crisis, the sudden implementation of neoliberal structural adjustment since 1991 – that originated another accumulation regime - and the asymmetric and subordinated insertion of the country in globalization have created new territorial contradictions that were added to the old ones."[86]

A group of communal organizations, civil society, academia and culture sector gathered under *"Dialogues... across the country and the city"* on the Right to the City and the Territory, opposing the Medellin Charter of the World Urban Forum held in that same city, issued a statement that explains how this logic determines the formation of cities today:

"We believe the POTs, in their initial concept, sought, as its fundamental principle, a balance between the natural system and the artificial system, planning the territory in an orderly and consistent manner, and, as a result, to achieve better living conditions for inhabitants. Despite the obvious achievements and substantial contributions 15 years after the beginning of its implementation, the city model has not allowed designing a more inclusive city that ruptures with the already congenital socio-spatial segregation and gender inequality, provides better environmental conditions and protects the main ecological structure, that protects the territory, the economy and the peasant life and compensates them for their environmental services, that considers and includes heritage as a structuring element

85   TOVAR, Carlos Alberto Torres (coord.). *Ciudad informal colombiana: barrios construidos por la gente*. 2009.

86   PRADILLA COBOS, EMILIO. "Neoliberalismo, globalización, regiones y ciudades en crisis". In: Cemos Memoria No. 16, September 9, 2002. México. Online. Available at: http://www. memoria.com.mx/169/pradilla.htm, P2, p. 01. [Acessed on September 21, 2008].

of landscape and development; but, above all, that is able to change the obvious wealth and surpluses generated from urban land valorization to achieve social equity. Quite the contrary. In recent years, the city has seen how public funds invested in public works that belong to all its inhabitants have significantly affected urban land values, however, its benefits have gone to private sectors, concentrated specifically in some of them. Likewise, it is clear how this city model and its instruments have increasingly benefited the financial, real estate and construction sectors."

Like in Brazil, the construction industry, for example, was the largest beneficiary of the housing policy for low-income classes, consolidating a logic of market adequacy and incentive to contractors. Therefore:

"In the 90s, with the disappearance of the Institute for Territorial Credit (ICT) and the Central Mortgage Bank (BCH) and with changes in the guidelines of the government policy, housing for the so-called popular sectors became an adequate scenario for developing the construction industry without abandoning other socioeconomic strata of the population that these actions have historically targeted. This industry, by changing minimum urbanization standards and housing policy decisions, continues invigorating the economy on the basis of being the leading development sector and primary employer in Colombia"[87].

Some phenomena are present in the Colombian urbanization process, such as illegal allocation, marginal occupation of urban space or zones of expansion (without any urban infrastructure), self-building houses with no technical quality, often subject to environmental risks, collapse or floods. Thus, the cities lack of capability to adapt to structural displacement and to the new

global context of urbanization has created, in Colombia, slum areas that live with closed high-class housing developments. .

"The new urban peripheries do not refer exclusively to the slums located in urban perimeters, the edges of the city or suburban areas – known as expansion lands -, but also those located at risk areas in urban perimeters, quarries, chircales and flooding areas, cities' centres that have been occupied by new urban dwellers under new tenancy forms that even lease some square meters per day, the occupation of abandoned or deteriorated buildings, the street as housing, among others that are present today (Torres, 2004)."[88]

We can say that the neoliberal globalization and the imposition of its development model have a fundamental role in the forced displacement through violent methods since the weakening of the State prevented the creation of economic and social redistributive policies.

In this regard, the International Tribunal of Opinion on the Forced Displacement in Colombia[89] states that the displaced people are victims of the development model adopted since mid-90s, which creates a second wave of displacement. Its verdict, considering displacement a State crime, says:

"Large multinational companies demanded a free path to advance the ownership of one of the country's main productive factors, the land, on which they would implement megaprojects (agricultural, industrial, mining, ports, touristic, traffic, among others). Under the pretext of countering guerrilla's insurgent movement, but with the goal of controlling the political and economic power in certain regions, the Colombia Plan emerges in 1997 – a military strategy funded by the US Government. With this

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87   TOVAR, Carlos Alberto Torres (coord.). *Ciudad informal colombiana: barrios construidos por la gente.* 2009, p. 85

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88   Id. 89.

89 It is as ad hoc, non-jurisdictional court that gets its legitimacy from those social sectorsthat convened it to seek a justice that was denied by the State, and it is supported by the ethical and moral prestige of those who compose it.

plan, forced displacements increased further, achieving the highest annual figures ever registered. Indiscriminate bombing, mass arrests, criminalization of different social manifestations, strong military presence in regions, among other factors, explain this increase."[90]

Moreover, this happens within a legal vacuum regarding the limitations for imposing this economic model, and even worse, within a policy of legalizing the lands stolen by transnational and paramilitary groups. "The Colombian Government has promoted a legislation that seeks to legalize land spoils of internally displaced persons and leave the crimes against humanity committed during the armed conflict unpunished (Statute of Rural Development, Law of Justice and Peace, Land Law, Law of Mines, Petroleum Act etc.)"[91]

The urban policy in the 21st century

In this regard, it is worth mentioning that the Álvaro Uribe Vélez government has signed major commitments with the United States for financial and political support to the war strategy of the Colombian State regarding the FRAC. "In this context, the forced displacement problem has expanded its magnitude, complexity and level of occupation in urban territories."[92]

With the rise, in 2002, of this president's right-wing government, it was observed in Colombia, firstly, the strengthening of the country's submission to the US economic and political dictums, and secondly, the increasing loss of democratic freedoms in the country, expressed by a series of

laws criminalizing social movements (anti-terrorism statute, the so-called "miraculous catches", threats, mass arrests etc.) as a way to preventively and repressively destabilize the demonstrations against the political and economic model being deeply and broadly applied in the country.

His election happened after the previous government failure in the negotiations with the FARC. However, there are allegations that Uribe had close relations with the extreme-right paramilitary groups (including alleged relations with drug lord Pablo Escobar), and that its security policy for armed conflict in the country actually resulted in its escalation. In this regard, it is noteworthy the invasion of the Ecuadorian territory in 2008, with the aim of attacking the FARC. There were several casualties, including Rail Reyes, who was in Ecuador negotiating the release of former senator Ingrid Betancourt, his opposition, with the French government, through President Chavez and Raul Correa, creating a diplomatic crisis with these presidents, whom the Colombian president accused of having relations with the FARC.

Another prominent Uribe policy was the decrease in public expenditure, which entailed restructuring public bodies, reducing public servants retirement pensions, dismissals, reducing public services etc. Similarly, there was a cut in the humanitarian care provided to the victims of the armed conflict, making the government action - which was already minimal and insufficient - even less effective to coordinate institutions of protection and the demands of the displaced persons, in addition to dismantling the rights acquired through Act 387 of 1997, notably their right to social security.

In addition to all these measures and actions, we can be add the campaigns for "voluntary return", harshly criticized by the victims' movements because they favour transnational economic groups that benefit from exploiting peasants, indigenous people and Afro-descendants. Moreover, they do not involve the affected people in the preparation of the return proposal and they do not guarantee that these people will get back the life they previously had before their removal, neither their safety.

Uribe conducted a constitutional change that allowed his reelection, remaining in office until 2010. After him,

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90   Available at: http://www.sinaltrainal.org/index.php/noticias/nacionales/61-veredicto-del-tribunal-internacional-de-opinion-sobre-el-desplazamiento-forzado-en-colombia.

91   Ib. 92.

92   MORENO, Johanna Eloísa Vargas and TOVAR, Carlos Alberto Torres. *Vivienda para población desplazada en Colombia. Recomendaciones para la política pública y exigibilidad del derecho.* 2009. Available at: http://www.scielo.cl/scielo.php?pid=S0718-83582009000200002&script=sci_arttext.

Juan Manuel Santos was elected, with a campaign for peace negotiations against the candidate representing Uribe's group, considered more conservative, who had the support of Ingrid Betancourt. Santos was re-elected in 2014.

Popular mobilizations in Colombia

In October 2010, the "Congress of the Peoples" was established in Bogotá, at the National University. Without disregarding that the indigenous struggle comes from hundreds of years of resistance, this articulation arose as a result of the protests that occurred in the early 1990s, like the Peasant Councils, the Popular Meetings, the Indigenous and People's Parliament, the 2004 mobilization, the Congress of Peoples and Social Movements in 2006, the Social Organizations Summit in 2007, and the Indigenous and People's Parliament, and the 2008 Minga for Social and Communal Resistance.

The latter brought together indigenous peoples, Afro-descendants, peasants, mestizos and urban workers in a national campaign to denounce the Free Trade Agreements and to defend the recovery of their territory and autonomy. After a strong repression (including dead activists), the appeal went to Bogotá.

"In the reflection tulpas held in Bogotá in October and November 2008, the combined sectors defined a process called Congress of the Peoples having power of decision and execution of the multiple social expressions marginalized from the country's policies."[93].

The Congress was then created, gathering nearly 20,000 people. Among its established themes were: 1) land, territory and sovereignty; 2) economy for living against the dispossession law; 3) violation of rights and unfulfilled agreements; 4) building power for good living; 5) life, justice and paths for peace; 6)

culture, diversity and common ethics; 7) integration of the peoples and globalization of the struggles.

In 2012, the Congress organized an Indignation Week, repudiating neoliberal and "globalization" policies made viable by the "American imperialism through Colombian ruling classes and governments" and implemented by President Juan Manuel Santos. The deterioration of the living conditions in Colombia and the systematic loss of rights, freedoms and democratic guarantees were especially denounced.

Specifically, it called for people to be outraged because the country was being handed to international consortia for the developing projects of mega mining, energy, agribusiness and oil; because of the concession of military bases to the US army; because of the commodification of the right to health and education; because of the land dispossessions and the forced displacement of millions of Colombians; because of the killing, displacement, threats and intimidation of popular, union, social and indigenous leaders, and further criminalization of whoever thinks differently and disagrees with the policies imposed; because of the war, the widespread massacres, the forced displacement, the killings of young people in the country and in the cities.

In this activity, the peace talks between the FARC and the Juan Manuel Santos government were addressed. On this issue, the organization stated:

"The Congress of the Peoples reaffirms its commitment to peace and acquiesces the beginning of talks between the government and the FARC-EP insurgency, while demands open spaces for dialogue with the ELN and for the claims and proposals of the Colombian Social Movements to be heard. We believe that a solution to the social and armed conflict requires the participation of all insurgencies and advancing the search for solutions to the problems that plague the Colombian people, the ones from grassroots, the ones who were never heard, the ones we will mobilize during this Indignation Week."

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93   For more information, visit: http://congresodelospueblos.org/.

Therefore, it defended the possibility of popularly endorsing any agreements between armed groups and the national government.

The negotiations issue became so central in the political debate and in the dispute of territory that we can say these exploratory steps for peace talks act as catalyst and facilitator of existing initiatives between social movements and organizations, and of many spaces of articulation, like the National Indignation Week, aimed to discuss proposals and activities concerning the dialogue processes between government forces and armed groups.

That is, there is a demand for effective and real participation of civil society and social organizations in the negotiation and decision-making process regarding the future of peace in Colombia, which is connected to specific demands of various popular sectors mobilized in the country.

Between February and September 2013, there were subsequent and widespread uprisings of farmers and producers ruined by free trade policies in the Colombian countryside. In August, a series of demonstrations in the country, called "national agrarian shutdown", occurred. Its claim focused on improving field conditions and rejecting governmental neoliberal policies as well as privatization and the handover of natural resources to transnational corporations.

Those protests were promoted by farmers, indigenous peoples, small ranchers and miners, together with students, truck drivers, unions, health workers, teachers and urban social movements who joined the demonstrations, which consisted of blocking several highways, obstructing the supply of resources, especially food and fuel, to the cities.

The demands were the right to small agricultural properties expropriated by the agribusiness, better living conditions with access to health services and drinkable water, and the review of the agricultural policies for small farmers, wage increase and better working conditions, especially for miners, along with reducing the transportation costs, for truckers. Therefore, they demanded the government to hold its earlier promises, which were not fulfilled, and to end the Free Trade Agreements (FTAs) and increase its support to sectors in crisis.

The movement was severely repressed; there were hundreds of arrests, imprisonments, and, according to the movement and the press, some casualties because of the police's excessive and indiscriminate use of force. According to the newspaper Brasil de Fato, in the referred period, there were "660 cases of individual or collective human rights violations, culminating in at least 262 arbitrary detentions, 485 people injured, 21 of them by firearms, 19 people killed and 4 disappeared".

The negotiations with the government did not go well, which resulted in President Juan Manuel Santos ordering Bogotá's militarization, designating 50,000 men from the Armed Forces to lift the blockades on the highways and the protests' concentration points throughout the country, and sending Armed Forces planes to ensure the city's provisioning.

We highlight that this mobilization happened in the middle of the government's peace talks with the FARC, a year before the presidential election. Rural development is part of the negotiation agenda for ending the armed conflict in the country.

The National Agrarian Shutdown in Colombia lasted 24 days with demonstrations, marches, rallies and roadblocks conducted throughout the country and reaching at least 25 of the 32 departments, thus considered historic. According to the Jesuit Centre for Research and Popular Education, 2013 was the year with the highest number of social struggles since 1975.

If it started in highways and small towns, later the shutdown gained support in big cities, prompting protests in solidarity and against the abuses and violence committed by the State to contain the blockades. This resulted, in Bogota, in the suspension of classes in public schools by the Department of Education, followed by private schools doing the same.

Meanwhile, the government reinforced repression and disseminated the idea that the movement was infiltrated by the FARC.

Negotiation meetings were organized with some sectors of the agrarian movement, but they did not take in to account all the demands, and, above all, did not cover the ones most affected by the government's agrarian policy.

"In September, Santos proposed a National Agrarian Pact, but most of those who sat at the table with him were large producers and landowners.

In response, the agriculture's poorest sectors convened their own meeting, whose details materialized in December in Bogotá and culminated in the Agricultural Summit.

The presidential statement and images showing the police beating and harassing peasants, which went viral on social networks, cost Santos a drop in the polls from 48% in June to 21% in September, according to Gallup."[94]

In the end, the government made some concessions, but the mobilization's main achievement was unifying various categories and sectors, giving way to a more profound debate on the Colombian political transformation.

However, the government once more did not honour the agreements signed in the negotiations. Thus, in March 2014, a joint articulation of peasant organizations, popular movements, seeds networks, union federations, as well as black and indigenous communities in Colombia, began preparing a new National Agrarian Shutdown to address the persistence of this development model based on the commodification of land and cultural assets. This meeting was called "National Agrarian Summit: Peasant, Ethnic and Popular" and aimed to build a unified program of claims, conducting pre-summits in the country to draft proposals to be presented at the national meeting.

This is an articulation with no party affiliation. Firstly, the indigenous people and the black movement accompanied as observers; then actually composed the mobilization.

"During the Uribe government, ancestral villages virtually staged massive demonstrations or mingas (collective work for the common good, in Quechua). However, on March, when the Bogota Agrarian, Ethnic and Popular Summit, which named the current movement, occurred, Colombia's National Indigenous Organization, representing 1.4 million indigenous people, decided to also join. (...) An important sector of Afro-Colombians also joined, the Process of Black Communities. In total,

12 national or regional organizations rediscovered unity, in a movement that had not been seen for decades in Colombia."[95]

This multiplicity of sectors involved in the mobilization brought a concern shared by all of not allowing the government to divide the negotiation by sectors or regions, as done in 2013.

Therefore, the challenge posed was not only to unify and strengthen the struggle in the country and the city, but also to consolidate a political project that contemplated the various sectors and was an alternative of power, thus advancing the programmatic unit and strategic projection. In this regard, it was decided at the Summit to hold the Shutdown in late April, early May.

This episode can be considered a redefining experience of the exercise of politics beyond the traditional electoral dispute where it was confined. Moreover, it also resumed fundamental issues for the Colombian people concerning the peace negotiations, the failure of both the free trade and measures imposed by the neoliberal pact, the problems in the agricultural production in the context of land concentration and the social and environmental consequences of the mineral extraction.

On March 30, the Summit handed a document with eight major points containing collective claims and 127 concrete requirements to the president. Among them are: harmonizing nature with its use as a livelihood by agrarian communities, which would define the new land use regulation; positioning themselves against the land "foreignization" and for the end of the free trade agreements, along with a participatory reform of mining and energy policies; and the end of the violent eradication of crops that are raw material for illegal drugs (like coca, poppy seed and marijuana), with the release of the people accused for this activity that are not part of the drug trafficking.

Parallel and related to the Summit's activities, the Alternative Urban Forum was held in April in Medellin, with the aim was to "advance and strengthen the articulation of

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94   Interpress Service News Agency: http://www.ipsnoticias.net/2014/05/paro-agrario-en-colombia-consigue-sus-primeras-conquistas/.

95   Ib. 94.

urban processes on the local and national levels", discussing proposals of cities and engaged in the agendas of the country's social struggles.

After 12 days of Shutdown, from late April and to early May 2014, the government issued a decree accepting to negotiate in one table with the 12 organizations from the Summit – which according to the government represent over 90% of everyone who joined the strike –, recognizing them as the Summit's spokespeople and accepting their list of demands as an agenda.

In addition, the Executive branch issued a document determining "the guarantee of free manifestation and free speech", conditioned to not blocking roads.

But this process was not immune to the State's repression and to human rights violations as reported by the Summit's human rights commission, which in a public complaint asked for: "• the international human rights defenders organizations to intervene and require a prompt and real solution to the country's situation; • the national and international communities and human rights organizations to make statements on the events referred to in this complaint; • the national and international communities and human rights defenders organizations to demand guarantees for the participants and spokesmen of the National Shutdown[96].

The commission also blames "the head of the Colombian State, Mr JUAN MANUEL SANTOS CALDERON, and the Human Rights Office of the National Police for violations of International Human Rights Law (IHRL) and breaches of International Humanitarian Law (IHL), as well as for the offenses referred to in the Colombian penal code, committed by members of the regular forces of the Colombian State in the operations area ruled by Police units, and possible violations that might occur to members of this organization in the future."[97]

Members of the United Nations Development Programme and even the director of Office of the UN High Commissioner for Human Rights are now accompanying the continuing negotiations led by Colombia's Minister of the Interior, Aurelio Iragorri, in order to investigate the human rights violations and abuses.

Debates of concepts before the World Urban Forum

In 2012, at the World Urban Forum in Naples, there was a roundtable sponsored by COHRE, FNRU, HIC, and IAI, as part of a strategy to promote the recognition of efforts of social movements and organizations regarding the understanding of the Right to the City worldwide.

In this activity, UN-Habitat was condemned since, in its "Manifesto for Cities", it showed a completely divergent concept from the one employed by social movements fighting for the right to the city and to land as both conception and strategy. It was argued that Habitat does not defend human rights and understands land and housing as tradable financial assets, therefore, based on individual land ownership and not on the right to a decent place to live in the territory for all.

The VII World Urban Forum was held in April 2014 in Medellin. Thus, several social movements and organizations made the following appeal:

"we call everyone – international networks, organizations, social movements and urban and popular collectives – to participate in and to promote the Alternative Forum of peoples and communities for building our proposals of cities, of inclusive cities where our rights are not only rhetoric. We will work in the spirit of the World Social Forum and denounce UN-Habitat renunciation to the millennium goal N. 7-11, concerning the increase of slums and evictions of tenants, mortgagees and defenceless urban dwellers."

The call's objective was to "*denounce the VII World Urban Forum, by conducting a national and international action for debate and mobilization that shows our disagreement*

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96   Available at: http://congresodelospueblos.org/index.php/paro-nacional-2014/519-denuncia-publica-no-2-situacion-en-derechos-humanos-en-el-marco-del-paro-nacional-campesino-etnico-y-popular.

97   Ib. 98.

and repudiation to how global capitalism has been building-destroying cities, positioning our issues in the perspective of articulating as global-local social urban movement to resist and build alternatives."

The political statement of the meeting states:

"We denounce the current neoliberal urban development model, presented by the Manifesto for Cities, the foundation of the UN Habitat III summit in 2016, for being exclusionary, antidemocratic, unsustainable and risky for the planet life and the humanity. Our cities are mostly designed and governed by the interests of large capital accumulation. Over 1.2 billion people around the world today lack decent housing and living environment, and in Colombia over 13 million people have had their human right to safe drinking water and sanitation violated. The markets, mafias, large national and multinational business, financial and real estate entities and state corruption networks have caused a profound urban crisis, which resulted in the marginalization of those who have less and are more vulnerable, the destruction of ecosystems and the denial of any possibility of democracy and good living.

The Forum manages to advance the national articulation of urban organizations and the unity with the alternative global urban movement. This effort is a continuation of other mobilization and meeting scenarios, such as the 2013 World Assembly of Inhabitants, on the international level, and the Colombian social movement, like the Agrarian Summit. The Country and the City are firmly united to confront the national problems, characterized by the land ownership concentration, the domestic production crisis and the environment, violence, inequality and the detriment of the public assets. We call all Colombians to mobilize in the National Agrarian and Popular Shutdown, demanding compliance with fundamental rights such as adequate housing and homes, vital minimum of water and energy in public services, the suspension of large mining and 50% reduction in fuel prices. We support

the proposals and claims arising from the tables for the Right to the City.

From Medellin, a city hit hard by violence and inequality, we call everybody to dispute the urban territory that we deserve, to start conducting right now a city project based on wealth redistribution, human rights, environmental rights and right to common goods, and the responsibility of inhabitants to be recognized builders and governors of the territories, not mere customers-users.

We are committed to the struggle for peace; we salute its search and bring to it to the building of a new city for decent life. We demand the State and governments on all levels to comply with the mandates arising from the experiences and knowledge present in this Forum. We also invite all civil society to join this purpose."

Its work agenda included the National Agrarian Shutdown and provided the participation in the Zero Evictions Campaign - For the Right to Adequate Housing, in October 2014, and the World Assembly of Inhabitants in Tunis, in 2015.

The Right to the City in Bogota

The urban development actions of the Bogota municipality

Since the enactment of Law 388 of 1997, focusing on land planning integrated to land management and assigning the responsibility for the urban development management to the municipality, we can say that Bogota is a city that has managed to make significant progress in its urban legal framework. Its experiences and attempts to implement a land use policy demonstrate a clear interest in renewing practices to govern the territory.

"In the Colombian context, Bogota has been at the forefront in the effort to implement the wide range of principles, instruments and possibilities recognized to municipalities in the hard task of transforming the patterns of segregation, land retention, private ownership of urban land values and precarious and delayed urbanization, that characterize the country's recent process of urban transformation."[98]

In this way, Bogota's public authorities have a diversified catalogue of instruments for the implementation and realization of the demands concerning economic, social, environmental and urban problems related to land use and land-use regulation. In fact, this has been the municipality's bet:

"(...) providing municipal authorities with a very wide range of instruments and mechanisms for intervention in the land market, which contemplates a more coordinated regulation of the objectives of the already classic expropriation figure, as well as fiscal and non-fiscal mechanisms for recovering land values

and even instruments for transferring the construction potential or planning-management figures, based on joint land management (land readjustment technique), including municipal entities that act directly over the territory, like the so-called land stocks backed by the right of preference."[99]

As an example, we can mention that some of the major advances in the Colombian urban system were implemented in Bogota: the "participation of land values on the State's urban action", which acquires part of the private benefit obtained by urbanization - a collective process – and it is used by the municipality, which approved the Valuation Contribution tax revenue; Partial Plans have been adopted in the city, seeking to invigorate the initiative for territory transformation by constituting a form of land development through association of owners and builders; the challenge of boosting the land supply for housing has been tackled by implementing the development declaration or priority construction.

Moreover, the experience of implementing these mechanisms has generated many discussions, from the resistance to and/or criticism generated by conflicts of social interests that underlie the policies, which were able to put into evidence challenges of city conceptions, urban management, development responsibility, content and scope of the property etc.

Legislative advances in Bogota

Bogota's Land-Use Plan was adopted by Decree 619 of 2000, revised by Decree 469 of 2003 and compiled by Decree 190 of 2004. Among the reasons presented for its modification, are: changes in Bogota's population projections and composition; the need to implement impact projects on the city's mobility; integrating risk management and adapting climate change to land use planning; harmonizing the rural land system with the

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98   PINEDA, p. 88.

99   PINEDA, p. 90.

national standards; and regulatory simplification[100] (all provided by and in accordance with Article 152, Decree 190 of 2004), signing the Agreement 489 of 2012, whereby the Economic, Social, Environmental Development and Public Works Plan – Bogota Humana was adopted. On August 26, 2013, Decree 364 was approved, adopting the exceptional amendment to the urban planning regulations in Bogota's Land Use Plan.

In order to guide the development of an inclusive city, the POT's exceptional amendment seeks to create opportunities for everyone to access public services; ensure an integrated transportation system; guide the recovery and integration of environmental spaces as enjoyment spaces for everyone in the city; and ensure a balanced city development, with urban quality and environmental and socioeconomic sustainability

The Plan's elaboration had to observe compliance with the participatory democracy principles. Since 2008, spaces for citizen participation in elaborating the Diagnostics were developed and, in 2012, a new space for socializing the new Plan proposal was created. Between October 2012 and April 2013, "concerns were collected, proposals were heard and doubts were solved at 231 discussion encounters that included meetings, workshops, councils, forums and seminars in which nearly 10,000 people and 700 organizations and social groups participated, as well as the 12 sectors of the district's office, in which 2,600 proposals were analysed and incorporated according to their relevance."[101]

On this aspect, an innovation brought by the plan is the **regulatory simplification.** "The POT makes urban planning rules simple and easy to understand, implement and appropriate by communities and institutions that guarantee the social control. The land use strategy makes general decisions settled by the urban regulation through simplified rules on uses, heights, volume and urban planning obligations. It also defines clear mechanisms and criteria for decision-making on the local level. The implementation of the planning, management and financing instruments articulates with the decisions of general regulations contained in this Plan."[102]

In addition, during the execution of the plan (2013-2019) there are *feedback* and *citizen monitoring and evaluation* of the Plan. The first one refers to "the process of dissemination and training of different population sectors, officials of the District's entities, locations and control entities, according to their particular needs, in order to increase knowledge and to allow greater appropriation and implementation of this legislation."[103] In turn, the second one corresponds to a system for measuring the actions defined by the Land Use Plan, established by the District's Record and monitoring.

Under the Colombian legal system, with the Land Use Plan, city officials have instruments to enforce the right to the city. It is not a prerogative but an obligation by the public category of urban function guaranteed by law.

On the right to the city perspective, there is a very important issue: the ability to render it effective. It took four decades of debates to formulate Act 388 of 1997 aimed to equip the municipalities with concrete and effective instruments for managing the city and its territorial organization in order to solve urban land access problems, reduce socio-spatial inequalities, develop housing for the population's poorest sectors. In this sense, the instruments provided by the Act articulate urban projects, their financing and the reorganization of the legal form of properties.

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100   According to the booklet "ABC del POT", the reasons justifying the need to revise the Plan are: adjustments to population projections with the 2005 Census (the 2005 census population dynamics stated that Bogota had 725,778 inhabitants less than what was predicted for 2010); risk management and climate change (decision-making on land use that are consistent with the new risk conditions to people's lives caused by climate change effects); Integrated Public Transport System (implementation of the SITP - Integrated Transport System, to which eco-efficient transport technologies - Metro, Light Rail and Cable Air Network - are integrated); articulating the rural planning with the national legislation (harmonizing Bogota's rural territory land use, which corresponds to 75% of the city's territory, with national standards); regulatory simplification (adjusting and correcting gaps), p. 5.

101   Booklet "ABC del Plan", p. 18.

102   Booklet "ABC del Plan", p. 17.

103   Ib. 104.

Thus, the POTs actions and plans are necessarily linked to investments that will allow their realization. It is a direct and binding relationship of plans-executions-investments on all planning scales[104]. Most instruments provided by Act 388 are territorialized through the POTs and Partial Plans.[105]

The Bogota Plan covers the 2012-2016 period. The justification for adopting the Plan and its overall strategy is described in Article 1:

"The district plan for economic, social, environmental development and public works and the multiannual investment plan for Bogota D.C. for 2012-2016, which contains the objectives, goals, strategies and policies that will guide the articulation of actions of the district government, are adopted in order to raise the citizens' welfare standard and lay the foundations for a focus shift in public action. It identifies the priority intervention factors that allow removing the segregation and inequality conditions regarding the person's capabilities, the persistence of situations of exclusion and environmental risks and the commit to strengthen public governance to guide and support the collective aspirations of the Bogota citizenship. The 'Bogota Humana' government intends to redirect investment and allocation of all kinds of resources so families inhabit safer environments, increase their resources and interact in a more democratic way with the government, in order to influence the guidelines of public policies with greater binding capacity."

The Land Use Plan aims to: improve the living situation for residents through access to opportunities and benefits offered by the city's development; ensure that all citizens have access to the city's common services - roads, parks, schools, hospitals, public services, decent housing; ensure the rational land use to promote common interest, environmental sustainability and heritage preservation; ensure environmental sustainability and protect the population against natural hazards.

It is structured in three areas:

1. **A city that reduces segregation and discrimination: the human being at the centre of development concerns;**
2. **A territory that faces climate change and is arranged around water;**
3. **A Bogota for the defence and strengthening of the public arena.**

The first axis refers to the defence of the human being centrality in the development, considering early childhood and inequality reduction along with improved standard of living a priority. The plan's total amount of resources will be invested primarily in this axis, focusing especially on childhood and adolescence development. The first axis contains 16 programs. According to Article 4,

"This axis aims to reduce social, economic and cultural conditions that are the basis of economic, social, spatial and cultural segregation of the Bogota citizenship, which contribute with persisting inequality conditions or make way to discrimination processes. It is about removing tangible and intangible barriers increasing the options when individuals choose their life projects, so they can access endowments and capabilities to enjoy living conditions that greatly exceed the levels of basic subsistence, regardless of gender identity, sexual orientation, ethnicity, life cycle, disability status, or political, religious, cultural or aesthetic preferences."

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104   SANTORO, p. 6.

105   The Land Use Plans define which areas will be urban development units, as well as the criteria and process for their delimitation. Partial Plans define the project that delimits areas for urban development units, done by either the competent authorities or interested individuals; the project establishes aspects of infrastructure provision, facilities, the corresponding cessions, subdivision, priority implementation phases and the system for compensating burdens and benefits. In case of renovation, the Partial Plan will also include, besides provisions on housing and infrastructure improvement, the need for facilities and public space to meet the new requirements because ofthe new densities and land use. (Art. 41 of Act 388).

The second axis has a key role in land use regulations and gives to the environment the status of essential component of development, integrating it into the city. It contains seven programs. According to art. 23 of the Plan:

"The Bogota Humana development plan recognizes the urgent need for the district to overcome the city model harmful to the environment through an ecological urbanism approach.

The politics of land use regulation, environmental management and risk management will be articulated to address climate change. It will be given priority to the care of social and environmental conflicts of informal settlements in risk areas, combining resettlement and adaptation in order to reduce their physical vulnerability, ensure load balance on the ecosystems and provide the city with ecological corridors for water connectivity and ecosystemic dynamics that reduce the land, water, energy and materials consumption and minimize the environmental impact.

It will seek to permanently and increasingly reduce waste generation in all activities, recycle and revalue as many materials as possible, as well as to promote the manufacture of products designed to be reused in the long run.

A concept of sustainable urban life that does not think of waste as something that needs to disappear regardless of social or environmental costs will be applied, and importance will be given to the basic premise of separation at the source, meaning that each citizen will separate recyclable waste from other kinds of waste. Within this concept, it will also seek to improve the treatment of the debris produced in the city by construction processes, reincorporating them to the productive cycle and using them for environmental and landscape recovery of quarries, mines and degraded areas."

The third axis sets the defence and strengthening of the public, representing the commitment to fight corruption and restore the citizens' confidence in public institutions. It contains 10 programs. According to art. 33:

"The third axis of the Plan seeks to defend and strengthen the public arena as foundation of the rule of law, meaning Bogota Humana will ensure, in different areas of the territory, participatory processes that promote mobilization, organization, deliberation, as well as broad and updated decision-making by the citizens in the urban management, strengthening democracy, working for peacebuilding, promoting an approach based on human security and coexistence, promoting transparent and responsible use of the city's assets and resources without tolerating public and private corruption.

"This means rationalizing public administration, by improving its provision of services for decision-making processes and responding the demand for procedures and care for citizens, appropriately and innovatively using information and communication technologies, and establishing a fair and progressive taxation to improve the living standard for the District's residents."

The objectives of the fundamental changes introduced by the capital district land use plan on a regional perspective are: 1) Planning the Capital District zoning on long-term. 2) Going from a closed to an open land use regulation system. 3) Linking the Capital District planning to the Regional Planning System. 4) Controlling the urban expansion processes in Bogota and its periphery to support the urban deconcentration and sustainable development process of the countryside. 5) Advancing to a diversified city-region model, specializing its centre for providing services. 6) Recognizing the interdependence of the urban system and the regional rural territory and the construction of the habitat concept in the region. 7) Developing urban planning, management and market regulation instruments for the region. 8) Territorial Balance and Equality for Social Benefit (Art. 1 of Decree 364 of 2013).

There are some mechanisms to make the land-use regulations objectives effective. Among them, we highlight:

- **Land qualification and localization and mandatory percentages for building priority interest housing** - any new land must allocate at least 20% for social housing. Municipalities can increase this minimum through land-use plans or provide it in urban renovation. According to art. 66 of the Plan: "Housing of priority interest will be located throughout the city and, for this, the following mandatory percentages are established: 1. During the first year following the entry into force of the regulations issued by the district administration, 20% of the useful land of any project will be allocated to building priority interest housing; 2. From the second year onwards, it will be allocated 30% of the useful land.

- The **possibility of determining the edification, construction, use or habitation** of vacant, developable, undeveloped lots, **to avoid the existence of urban vacuums** that waste the existing infrastructure and stay away while the owners expect its valuation.

- **Plan for economic, social, environmental development, every four years**, where the government plan expresses so. This, as said, articulates the economic, social and environmental planning with the municipal investment programming.

In this new land-use regulation strategy, a **compact city model** was chosen, which, according to art. 157 of Decree 364 of 2013, aims to "reduce the pressure of urbanization on urban edges, areas of high ecosystemic importance and areas at risk, by defining actions that promote urban re-densification processes in central areas, a mix of urban space uses and qualification using the transformative potential generated by the implementation of integrated public transport system (SITP) and programming interventions in public services, public space and facilities, under the criteria of equal opportunities, gender equality and situational prevention of crimes."

Regarding this model:

- "*It stimulates densification processes (understood as increasing population in a specific area), allowing the construction greater heights and square meters in central areas and in areas with greater presence of economic activities with good accessibility and that promote the best use of these areas, for locating a large quantity of inhabitants;*"

- "*It looks for urban balance, i.e., more people means more parks and facilities. Therefore, areas that may be re-densified must generate a reurbanisation process (providing public services, parks, facilities and roads, according to the needs of the new population) and, for this, all urban development projects need to comply with urban obligations and Priority Interest Housing (housing for a maximum of 70 minimum wages);*"

- "*It promotes the construction of Priority Interest Housing (VIP) in suitable locations to facilitate the access of low-income citizens to employment centres and urban services.*"[106]

It is argued that, among other benefits, this city model, by mixing land uses, increases economic dynamism and encourages social integration, stimulates the city's ecological and landscape potential through the revitalization of spaces, and increases public spaces for the enjoyment of citizens, with constructions in height.

Regarding downtown revitalization and housing construction (art. 22 and 21 of the Agreement 489 of 2012; Housing and Habitat Program, art. 512 et seq.; Urban Revitalization Program, art. 521 et seq. of the Decree 364 of 2013), some aspects should be highlight.

The land use policy corresponding to these programs has the premise to prevent the tools from being used for urban renovation processes that attracts and encourages more profitable uses and eliminates the right to the urban space benefits of the poorest sectors. Its objective is for the poor to be located where the infrastructure is. Therefore, the role of urban planning is to value land and prevent evictions.

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106   Booklet "ABC del Plan", p. 8 e 9.

To accomplish this perspective, social uses and classes are combined in the expanded centre: "Bogota Humana's objective is to improve the location of low-income households and of those who live in peripheries, away from the centralities and transport infrastructure, in the city, so the mix of different social groups is potentialized. The expanded centre has the exclusive purpose of indicatively pointing city areas where actions for housing production of the renewal program will be prioritized. In that area, it will seek to implement comprehensive measures of infrastructure, facilities and green areas, according to what was defined in the Land Use Plan. It will try to rupture the pattern of spatial segregation."[107]

To accomplish this goal, the law makes the following mechanisms available:

1. Land qualification and localization for social housing construction and the establishment of mandatory priority interest housing percentages;

2. Declaration of priority development and construction;

3. Use of district fiscal assets;

4. Financing water and sewage networks and public space;

5. Actions associated with participation and protection of the original owners;

6. Right of preference;

The declaration aims to "promote land mobilization and the construction of priority interest housing in Bogota," therefore, "the plan provides the priority of development to lands used for real estate valorisation located throughout the city. After a deadline, between one and two years, the Administration may conduct public auctions to constructors interested in acquiring the land and paying the price to the owners."[108] Thus, owners of undeveloped or unbuilt land are identified and notified, and then a process of forced alienation or administrative expropriation begins. Another change in the new Plan was the search for an environmental culture around water so citizens understand and act on processes of **climate change** adaptation. Thus, "the Land Use Plan proposes reducing Bogota's territorial vulnerability against the new threatening climate change conditions, by incorporating adaptation and mitigation measures that affect life protection and environmental functionality of the mountains, rivers and gorges natural areas."[109]

According to Art. 94 of Decree 364/2013, which inaugurates the risk management policy associated with climate change: "Risk management is a social process that aims to reduce or permanently anticipate and control the risk in society, integrated with the human, economic, environmental and territorial sustainable development standards, this process is oriented to the design, implementation, monitoring and evaluation of policies, strategies, plans, programs, regulations, instruments, measures and permanent actions for risk awareness and reduction and disaster management." "This Land Use Plan includes measures to adapt to climate variability and change in the Capital District's processes for risk management, emphasizing the reduction of the city's exposure and vulnerability. It seeks to increase resilience to adverse impacts of potential climate extremes on people, economic activity, environmental, social or cultural services and on infrastructure in areas that could be negatively affected in urban and rural areas."

The main measures for coping with this problem are reducing the emission of greenhouse gases, transforming transport means and technologies (Article 135, B, "1" and Article 136, "4"), discouraging and controlling the occupation and settlement in areas at risk of flooding and landslides (art. 27, "2"; art. 45 "a" and art. 53 "a"; art. 61, "7"; art. 64, "1"; Art. 65 et seq.; art. 115 and et seq.), implementing new sustainable ways to build the city with increasing vegetation cover and soil permeability in order to reduce urban heat islands (art. 131, 132, 136, 139, 155 "2" and 236), and incorporating new areas as environmental protection areas.

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107   Boletín de Prensa Plan de Desarrollo: Bogotá Humana, p. 5.

108 Boletín de Prensa Plan de Desarrollo: Bogotá Humana, p. 6.

109   Booklet "ABC del Plan", p. 10.

The **sustainable mobility** is another innovation brought by the Plan. The mobility scheme aims to promote intermodality, the integration of the regional public transport system for reducing congestions and facilitating access, to prioritize pedestrians and bicycles especially in central areas, and to promote densification processes along transport corridors (Art. 159 et seq.).

The benefits of the new mobility concept are reducing time and money spent by the population when commuting throughout the city, and better mobility conditions; rendering services closer to their users and consequently more time for other activities; discouraging private transportation and consequent reduction of greenhouse gases emission, improving the air quality[110].

Finally, understanding Bogotá as an inclusive city is also one of the Plan's innovations. Integrating social sectors and activities improves people's living conditions, who were kept apart of the city's economic and political life. "The Land Use Plan (POT) encourages the supply of and facilitates the access to Priority Interest Housing (VIP) in central areas, which, combined with the mixture of uses, access to transportation and urban services, ensures better living conditions for low-income families. Mechanisms are created for the new developments in the city to contribute in the creation of Priority Interest Housing, parks, schools, libraries and services."[111]

With this, the economy is dynamized, the access to services and urban structures is improved and the right to the city is equitably achieved.

The difficulties faced

As we have seen, Bogota has an advanced legal regime that allows the applicability of instruments and mechanisms of intervention in the urban development, but this is not enough to accomplish some urban planning goals.

For example, the partnership between public power and private entrepreneurs to elaborate partial plans, mandatory in all areas of urban expansion or renovation, faces a lot of resistance from owners who do not accept being subject to public decisions and are afraid of the risks of investing in a consortium with the government. However, fundamentally, there is no economic interest from the private market to develop new areas, only to build houses, which are highly subsidized.

Land stocks, in turn, follow the market logic, buying cheaper and peripheral lands, and occupations continue in regions where there is less control and the State fails to anticipate itself in urbanizing these areas of informal and precarious expansion. Moreover, they did not work as land prices regulators because, when acquiring land, its price considers that the area can be urbanized[112]. This means the challenges connected to the land profitability were not overcome.

However, mainly, to the old problems of Colombian society, connected with the strong conservative presence in defining policy, were added new problems arising from the new phase of the global economy.

Bogota is known for its modern means of transportation – TransMilenio, a system of bus rapid transit corridors that has existed for 14 years, with the aim of reducing pollution and congestion, and because there was a need to expand mobility and reduce the travel time and conventional buses were unsafe[113] and insufficient. Its creation was stimulated by the World Bank.

The bus companies were very powerful and it was difficult to confront and change the model. In the end, they became TransMilenio partners, which allowed its creation. Nowadays, twelve families dominate Bogota's transport and have become an oligopoly.

Nowadays, it is precarious, insecure (there are high rates of rape and assault to women), unable to meet the demand and has increasing fares.

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110   Booklet "ABC del Plan", p. 13.

111   Booklet "ABC del Pan", p. 13.

112 Santoro, p. 106.

113   Mainly because of the fierce competition to attract passengers known as "penny war".

The study "Respuesta de Sindicatos a proyectos de reestructuración del Banco Mundial. El caso de Transmilenio en Colombia" ["Trade Unions response to the World Bank restructuring projects – The TransMilenio case in Colombia"] provides some important data.

TThe process of planning and implementation was not discussed with transport workers whose working conditions and labour rights were not considered in the documents from the World Bank and, thus, suffered many violations, with labour practices deteriorating over time

Note that:

"As evidenced by the TransMilenio case, even a gradual restructuring program resulting in the creation of formal jobs can result in significant negative labour impacts, and the exclusion of workers and their representatives from the dialogue on reforms undermines the possibility to address the problems reasonably. In Colombia, the main obstacle for workers' participation is the systematic violation of the core labour standards and a political context described by Amnesty International as the world's most dangerous one in the woeld for unionists."

The fare is also considered a problem for keeping poor citizens away from this public service.

"However, 96% of the revenue of the 1.6 million passengers that use the system daily comes from public funds to be distributed among private bus companies with concessions for major trunk routes (72%) and feeders system (15%) and the private company that collects the fees (9%). The amount of money being allocated to private interests instead of being reinvested in the system is an issue that should be further investigated, which would be a daunting task even in a country that observes transparency in business and rights human. Precisely because these regulations do not apply in Colombia, it is not unreasonable to expect that the World Bank takes these issues seriously instead of making radical statements to the success of Bogota's model as basis for global replication."

Several protests were conducted in recent years because of TransMilenio bad services, whose conception and implementation is strongly marked by monopolist power over territory, sanctioned by the State, which prevents an effective appropriation of the urban space by the population for their needs, generating contradictions and struggles in the city originated by the capitalist management logic.

The emblematic Gustavo Petro case

The mayor of Bogotá, Gustavo Petro, a former guerrilla members from the nationalist movement "Movimiento 19 de Abril" (M-19), in April 2014 was dismissed and disqualified from holding public office for 15 years by the country's General Attorney, Alejandro Ordóñez, under the allegation that he was responsible for mismanaging a garbage collection crisis in the city in December 2012.

Thus, the mayor, elected by popular vote, was removed from office by a general attorney from the Congress, under the "mismanagement" justification (and not for committing a crime, or something of this nature). Therefore, this measure, without any political or doctrinal and jurisprudential history, became one of the greatest facts of political importance in Colombia's recent history.

After a three-month trial, the dismissal was confirmed by President Juan Manuel Santos, despite the protective measures requested by the Inter-American Commission on Human Rights considering the government's measure a violation of human and political rights of electors and even the mayor's. Thus, for the first time, the Colombian State defied a decision of the Commission.

Regarding this fact, the FARC released a statement calling Colombians to "take the streets" in order to "rise themselves against the dictatorial dismissal of the mayor of Bogota" and demanding respect to democracy. They said, "Despite the ideological and political disagreements we may have with Mr. Petro, we cannot remain unmoved by this excessive example of oligarchic arrogance." In their opinion, "intolerance and lack of guarantees for exercising political opposition are the causes of the long armed conflict" in the country.

The Alternative Urban Forum also made a statement on the case, considering it an attack of the pro-privatization and neoliberal policies sectors that "loot the treasury resources", and knowing that the conflict was based on the mayor's measure to de-privatize the garbage collection service in Bogota.

"The Popular Alternative Urban Social Forum organization publicly denounces the impunity with which Santos government defied the IACHR protective measures. In addition to attacking the 'Bogota Humana' project, this dismissal strengthens privatization as an urban model for the country and mocks the sovereign decision of the citizens who voted for Gustavo Petro as mayor.

"This blow to democracy and to human and political rights in the capital outrages us and gives us greater strength to fight for another city model where citizen participation is not merely decorative. That struggle is what gives meaning to the Popular Alternative Urban Social Forum, to be held in Medellin in April 6 to 9, to which we have invited representatives of 'human Bogota' to discuss the Colombian state urban public policies."

A debate fundamentally based on disagreements between the extreme right and the alleged extreme left, now incorporated into institutional politics, started in Colombian society. There was no proof that any damage was caused by the change undertaken in the garbage collection system from a private monopoly to a public commercial duopoly. And, if the company contracted by Petro to provide the service of collection, transportation and disposal of garbage was incompetent, the same can be said of the previous private enterprises, who besides inefficient, also were not willing to spend more money to modernize its services. According to an article by Óscar A. Alfonso R., the undercurrent debate on this conflict relies on understanding who controls the Colombian metropolis.

The economist explains:

"Bogota's population primacy over the rest of the country appears to be unstoppable since, for over fifty years, it has been growing faster than the cities following it. The sequential flow of voters justify their dispute because the city's electoral bid is an issue in any national election, for either president or Congress. Financially, Bogota is, like any current metropolis, a factory of cash flows for certain market stakeholders and for the national bourgeoisie. The TransMilenio system's revenue budget amounts to 5%, the Aqueduct to 4.4% and the Codensa to 7.3% of the total income received by Microsoft in the world in 2013, let alone the hackneyed theme of solid waste collection or road investment. The subway system's cash flow is a loot of major proportions. Becoming such a substantial cash flow, replacing the efforts in the production of knowledge that withstand Microsoft for political contacts and inherent corruption, puts the city as a target of organized contractual crime, whose first chapter was the "procurement carousel". Of course, doubtlessly, it happens as it is written: in this territorial State model, more corruption episodes are coming, being more and more sophisticated to evade the little ineffectiveness of a system of justice that lives with impunity.

Meanwhile, the largest proportion of value-added tax (IVA), currently the nation's main source of income, comes from Bogota. In a country where the national bourgeoisie, commonly known as the "elite", has operated the fiscal decentralization threads to recentralise the country, that cash flow should not take risks as the ones represented by some popular mayors who promote a different territorial State model. 'Mr Tocqueville, you keep the democracy and we will keep the money!' is the slogan of this national bourgeoisie who hitherto respected political decentralization and only interfered with fiscal decentralization. Today, it tramples both. It is no coincidence that finally when two local rulers – Bogota and Soacha mayors – decided to conform the metropolitan area, the central government replaces the initiative that amends the previous regime for the one provided by Act n. 1.625 of 2013, excluding Bogota, so that, some day in the next century, perhaps, a "special regime" would be issued.

We must not overlook the fact that they are articulating to revoke Soacha's mayor mandate, justifying it through precarious social facilities as a result of the authoritarian implementation of 'Ciudad Verde', a macro housing project that is of utmost interest to the Housing Ministry and construction guilds. However, the cover was the 'Pact for Bogota' with which the president is designing his reelection campaign since he took office; i.e., a president in office is launching a government program for municipality because, under his leadership, he has seen three different city administrations. His vice-president candidate does not spare the messianic tone, proclaiming that 'finally Bogota will halt its collapse'. The political decentralization was trampled. Vargas Lleras has not foregone being in the rattle for the mayor's office either, nor has the president's cousin from the extreme right; at the same time, a delusional former mayor assembles a national project while consulting agencies that cajole him with alleged political favourability of the majority, meanwhile the national bourgeoisie oils its machinery to crush the race. The only mayor of Bogota who managed to be president is part of the national bourgeoisie and, not coincidentally, was the worst mayor and former mayor, and one of the two worst presidents and former presidents.''

After this dismissal, Bogota had as mayors, first, the minister of transport, Rafael Pardo, then Maria Mercedes Maldonado, a government official from Pedro's administration. However, in March this year, President Juan Manuel Santos had to restore Petro to his position following a decision of the Supreme Court, ordering the country's compliance with the measures determined by the Commission.

Relevant Notes

Similarities

- Both countries were marked by recent waves of historical demonstrations staged in the urban scenario, centred on challenging the urban model;
- Both countries have historical similarities regarding the neoliberal interference in the cities' territorial organization and the development model adopted in the country;
- Both countries are marked by a strong militarization of the urban space as a mean to repress the contradictions emerging from this urban model;
- Both countries have advanced land laws that are very distant from the experience in urban areas.

Particularities

- The realization of the right to the city in Colombia is linked to the solution of the domestic armed conflict, which means challenging the land tenure structure and explicitly recognizing displaced people as builders of the city, with their own contributions in knowledge and visions, through the realization of their right to memory, truth and justice;
- The integration and recognition of the relation between city and countryside is present in Colombian manifestations by their composing sectors and they materialize in the content of the claims and the joint representation.

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The Right to the City in Europe

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Acknowledgements

Introduction

This document exposes the main results of the research on the right to the city developed in **Europe** in the framework of the project "Moving towards the implementation of the right to the city in Latin America and on the international level", launched by the Habitat International Coalition - Latin America Office (HIC-AL) and the National Forum for Urban Reform (through Instituto Pólis), with support from the Ford Foundation.

It presents an analysis about the status of the understanding and implementation of the right to the city in Europe. The terms of reference in the research established that, in each region, four countries and/or four cities should be analysed. In the European region, we selected Spain and Italy since they constitute two of the contexts in which the matter has obtained a higher visibility, although from two significantly different approaches. Regarding the cities, we opted for a sampling that could give a perspective of different although complementary readings on the subject. Accordingly, we selected the cases of London (United Kingdom), Istanbul (Turkey) and Hamburg (Germany). This sampling offers a snapshot of the different struggles and tendencies (some emerging, others more developed) that exist in several places in the region: the southern area (Spain and Italy), the non-continental Europe (UK), the northern area (Germany) and even Eurasia (Turkey).

The research concludes with a panoramic chapter on the "Positioning of the issue on the European level" (Chapter 2), in which we briefly refer to some interesting elements from other countries, such as France, Austria, Sweden, Denmark or Portugal. Lastly, the final part comprises additional short texts that explore in greater depth some related transversal themes (historical forms of communal property) or other specific contexts, like the experience in the city of Utrecht (Netherlands) or in Serbia. Even though there is a considerable plurality of cases, it is important to stress that the research does not contain a comprehensive panorama of the readings and struggles regarding the right to the city in Europe. This research is only a first approach that allows establishing future lines of research to delve on the tendencies and the typology of experiences outlined here
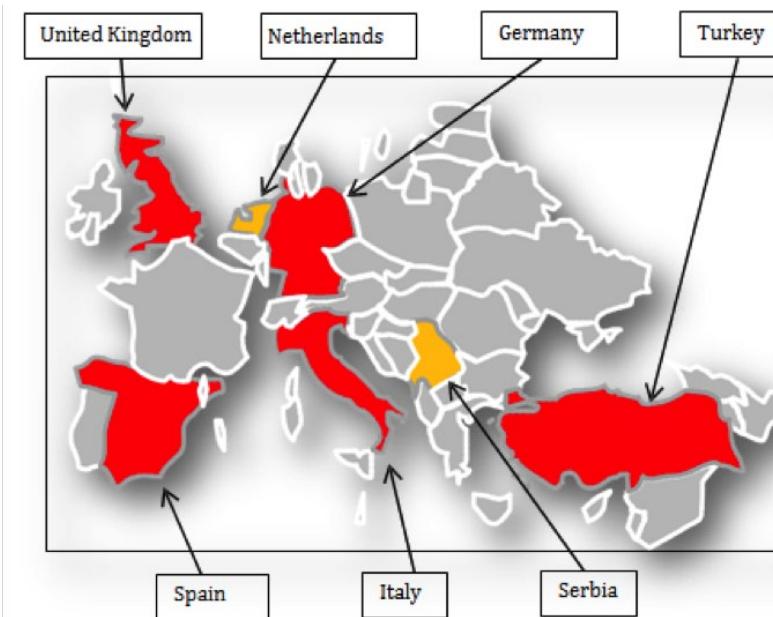
Map of the countries concerned in the research. The contexts analysed in detail are portrayed in red (chapters 3 to 7). Some additional experiences synthetically mentioned (chapter 8) are in orange.

Regarding the criteria used to select the case studies, we need to mention some things. Firstly, Spain is probably one of the European countries with a high number of local governments that have implemented political actions base on human rights at some point in the last fifteen years, in a more or less transformative way. There are multiple and various examples and they will be referred to in Chapter 3. Nevertheless, this is not the only reason why we are interested in examining the Spanish case. This case also fosters great interest because it is one of the European countries with highest civic mobilisation linked to the right to the city and, more specifically, to the right to housing.

Regarding Italy (Chapter 4), despite the work on the right to the city being considerably recent, we are interested in analysing this case because it connects in an interesting way with experiences from other parts the world, especially in

Latin America. This is why in Italy the debate revolves around collective rights, particularly, on common assets (mainly water and public space). This chapter will present the country's main existing initiatives regarding this issue, describing specially the developments that have taken place in Naples, an interesting catalyst for some of the main innovations and debates produced in the country.

London's study case (Chapter 5), similarly to Italy's case, shows how it is possible to rebuild collective rights, although here it refers to the land property and land tenure regime. With the example of a community land trust in a London neighbourhood, we explore how to transgress the paradigm of the individual freehold, currently predominant in most contemporary societies.

Istanbul (Chapter 6) was added to the sampling because of the civic riots and uprisings that have occurred since 2011, which challenge the modernization and development model in the Turkish city, explicitly claiming for the right to the city. Since in Europe both civil society and popular movements have not done a very significant use of this political tool, we consider it timely to draw attention to the Turkish experience in order to identify the reasons explaining why the concept seems to have ingrained deeper there.

Hamburg (Chapter 7) is considered an interesting experience in the European context, as it is one of the few examples of mobilization of the artistic community and the cultural sector under the right to the city banner . Notwithstanding the existence of a similar experience in Berlin, we chose Hamburg because the civic struggle for the right to the city seems more consolidated there, being included in several global meetings in which multiple international stakeholders linked to the right to the city issue participated.

Finally, Chapter 8 ("Other interesting experiences") gathers some additional initiatives that seemed important to register, although we could not delve in them since this escaped the research's terms of reference, in order to give some visibility to the plurality of interpretations, policies, initiatives and agents that are contributing to advance this struggle to a greater or lesser extent. In this chapter, we will find the experience of Utrecht, a Dutch city. The interest in this case lies in the fact that, contrary to the widespread European dynamic of establishing municipal human rights charters (a political act subject to the majority of votes in the municipal plenary), Utrecht is basing its human rights interpretation on international treaties. This approach is justified by the intention to not "politicize" the municipal human rights strategy, that is, to avoid it depending on the political will of the politicians responsible at the time. The Serbian case is also included in this chapter , in which we offer a brief perspective on how the same neoliberal logic of urban development from other contexts in being implemented in countries from the former Soviet Bloc. Due to the phenomenon's recent character, there still is low political awareness regarding the setbacks arising from this model. However, precisely because of this, some Serbian movements are especially receptive to new concepts, like the right to the city, in order to articulate interpretations and actions of urban resistance. Given the strategic character of this research, we considered it important to mention this last context for stimulating new alliances among movements on the international arena. Lastly, the experience concluding this chapter provides a short history of some historical forms of communal property (like the polders in Netherlands or civic uses in Italy) showing that the current predominant model of individual property is not a natural feature of the human history, but a regime emerged just some centuries ago. In addition, the chapter advises on how lessons from these management and collective use practices can contribute to the right to the city perspective.

Regarding the work model used in this research, we articulated a small network of researchers, from each country and city in the study, that have contributed to build up this report. In total, 11 researchers and one collective have collaborated, distributed as follows: positioning the topic in Europe and Spain: Eva Garcia Chueca; Italy: Giovanni Allegretti, Giulio Mattiazzi and Michelangelo Secchi; London: Owen Dowsett and Jez Hall; Istanbul: Yasar Adanali; Hamburg: Manuel Lutz, Laura Colini and Michael Rostalski; Utrecht: Eva Garcia Chueca; Serbia: Ministarstvo Prostora; and the historical

forms of communal property: Michela Barbot[1]. The group was coordinated by Giovanni Allegretti and Eva Garcia Chueca, who also elaborated the introduction and the conclusion.

The methodology used consisted in doing a documentary analysis of different materials (scientific papers, information on relevant stakeholders, websites etc). Most of the researchers have been invited to participate in the project not only because of their scientific qualities, but also because of their condition as militant researchers, which resulted in access to first-hand information not always available in written documents or on the internet. In some cases, the documentary analysis has been supplemented with interviews (Italy, UK and Istanbul) or the use of participant observation technique (Istanbul).

We value this team work in a very positive way because it allowed us to include in the research more experiences, to equip ourselves with a bigger capacity to delve in them and to see different interpretative angles to the same theme in culturally diverse contexts. It also made it possible for us to explore territories that we considered an important challenge in linguistic terms (such as, Turkey, Germany and Serbia).

Positioning the Topic in Europe

On the origin of the urban issue in Europe

Delving into the origin of the struggle for the right to the city in Europe forces us to go back to the 19th century, a historical time when the debate on the so-called "social issue" and, for that matter, the urban issue, emerged. With the Industrial Revolution, the countryside had progressively emptied as consequence of the mass emigration to the cities searching for work. The urbanization rhythm was so intense during the mid-19th century that cities like Vienna ended up with five times more inhabitants in a matter of only few years (from 400,000 to 2 million people). Since it was impossible to absorb such a fast growth, soon serious problems started appearing, concerning poverty, overcrowding, precarious housing and transmission of diseases, like the epidemic of cholera that affected a number of European cities in 1832 (Reinprecht, Levy-Vroelant and Wassenberg, 2008: 32-33). However, worse would come in the last decades of the 19th century, when social issues began to particularly deteriorate. As a response, the socialist and communist thinking proliferated in Europe, and urbanism was born as an autonomous discipline in the universities. Even though at an early stage urbanism was only dedicated to regenerating historical centres, later on it played an important role in the cities' expansion.

Among the main measures adopted in the 19th century to deal with the problems coming from industrialization and rapid urbanization, we highlight the ones regarding housing. To present a historical view on the origin of the urban struggles, it will be interesting to start from an analysis on how the guarantee of the right to housing has evolved in Europe. Considering the absence of public regulation or planning on this matter, the first responses to the social issue emerged through the initiative of private actors, such as factory owners, investors, religious groups or philanthropic organizations. Legislative and political measures from governments would start developing by the late 19th century, probably based on different kinds of reasons: social (to fight against injustice), economic (to keep the work

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1 For more information, see Chapter 11, "About the authors".

force healthy in order to continue harvesting benefits), political (the fear of popular riots) or regarding public health (to avoid the proliferation of diseases).

The first country to legislate on housing rights was Belgium in 1The first country to legislate on housing rights was Belgium in 1889, followed by Great Britain in 1890, with the Housing of the Working Classes Act. In France, the Siegfried Law was promulgated in 1894 and a little afterwards, in 1908, the Ribot and Bonnevay laws would complement the first one, of which we highlight the creation of Public Offices for Moderate Rent Accomodation (Reinprecht, Levy-Vroelant and Wassenberg, 2008: 33-34). The first countries to offer social housing were Sweden, Denmark, Austria, Germany, France, Netherlands and the United Kingdom (Rodríguez Alonso, 2009: 127).

Carrying out a detailed historical analysis on the evolution of the protection to the right to housing in Europe would exceed the aim of the present study. However, it is important to bring some elements that allow us to understand in general the tendencies that have existed in the European context since the beginning of the urban issue. Harloe identifies four great historical moments concerning the provision of social housing (Harloe, 1995: 72 apud Malpass, 2008: 18) in which we can discern two great European models: the universalist one (established mostly in Nordic countries like Sweden, Denmark or the Netherlands), which considers the provision of social housing a citizen right, therefore offered to the population as a whole; and the residual model, based on socioeconomic criteria that contemplates providing aid only to certain vulnerable groups. Thus, (1) from an early stage until 1914, the State absence in this filed motivated the development of a response of philanthropic or voluntary character to help those in need; (2) during World War I (1914-1918), the universalist model was momentarily predominant, (3) however it would soon be replaced (from 1920 to 1939) by the residual model. Subsequently, (4) in the post-war years, during the reconstruction (from 1945 to the mid-70s) the universalist model was once more imposed and the first initiatives aimed at comprehensively improving the neighbourhoods with precarious housing emerged. However, since then, the residual model has settled in a permanent way. Therefore, in general terms, we can conclude that the European social housing model is the residual one, while the universalist model is a response that has only emerged in exceptional situations of either war or post-war reconstruction.

In the 1970s, most of northern Europe got a housing stock in a suitable size to the population's needs. The measures taken had different natures: from production aid to fiscal aid, including personal aid. Yet, there were massive operations of national scope, like the "A million houses" program in Sweden, whose products are currently subject of a comprehensive process of urban and social requalification resulting from its degradation.

Despite this first momentum, the 1970s economic crisis resulting from the oil issue reoriented States' social action, as they started making cuts in housing so this sector would no longer be an economic load. The rental market was liberalized (which translated into a price increase), private property was fostered as the way to access housing and it was decided that social housing would not be built anymore and only a small percentage of the stock already built would be preserved. In practice, private rental became the alternative to social housing, and the aid that was previously given to the population as a whole (universalist model) now was only applied to the groups considered priority, like the youth, migrants or low-income families (Pareja and Sanchez, 2012: 3).

Over time, the housing policy was no longer managed by the State, leaving a vacuum that banking institutions occupied (especially after the liberalization the mortgage market) through financing housing construction and purchase. From 1990 onwards, the State only facilitated housing purchases by applying low taxation to mortgage loans, exonerating tax on real estate and, in most countries, ending taxes on housing sales. In many cases, systems of 'housing savings' were also put into operation: they favoured real estate investment and housing purchase through high interests or bonus in savings and/or subsequent loans with reduced interests. Also, in terms of social policies, public intervention went from providing housing to measures directed at avoiding exclusion problems from its access (especially in France, Finland, Ireland and the UK) or to the development of urban policies that stimulate a sustainable development of the cities (Sweden, France, Ireland and Finland) (Rodríguez Alonso, 2009: 127-134).

As a result of this model, nowadays 60% of the European Union population owns their own homes and only 20 to 30% uses social housing. In countries like Spain, Greece or Estonia, the rate amounts to 2% while in Netherlands it is placed at 35% (Malpass, 2008: 15). In absolute terms, France has the highest volume , with 4.2 million units, while Austria has the biggest rental market, where 45% of the total amount of properties is under this regime (from which, 27% is under a social rental regime). In Austria and Netherlands, the development of social housing in big cities has traditionally been in the hands of the local power: 40% of the real estate market in Vienna and 52% in Amsterdam (Reinprecht, Levy-Vroelant and Wassenberg, 2008: 32-33).

This situation, where the banking sector is predominantin housing management and the private property regime is hegemonic, is especially intense today in the countries from the former Soviet Bloc. Since the 1990s, these countries have ventured in the pathway of rapid and progressive privatization, have conceded the ownership of most of the housing stock constructed during the socialist period to their tenants, have abandoned public intervention policies in this field, and have adopted a lenient position regarding the proliferation of informal settlements in the peripheries of urban centres.

And it seems this has also been the predominant trend worldwide, according to the report of the Special Rapporteur on adequate housing, Raquel Rolnik, released in 2012 (A/67/286, August 10, 2012):

"In the late 1970s, a dramatic shift occurred in housing policies, starting with North America and Europe, followed later by developing countries in Latin America, Asia, Africa and by formerly planned economies. This shift, supported by predominant economic doctrine, called for the transfer of activities from State control to the private sector and for unrestricted free markets and free trade. This view soon gained hegemony, shaping the policies of States, international financial institutions and development agencies. The effects of this approach on housing policies across the globe have been dramatic and well documented"(Rolnik, 2012: 3).
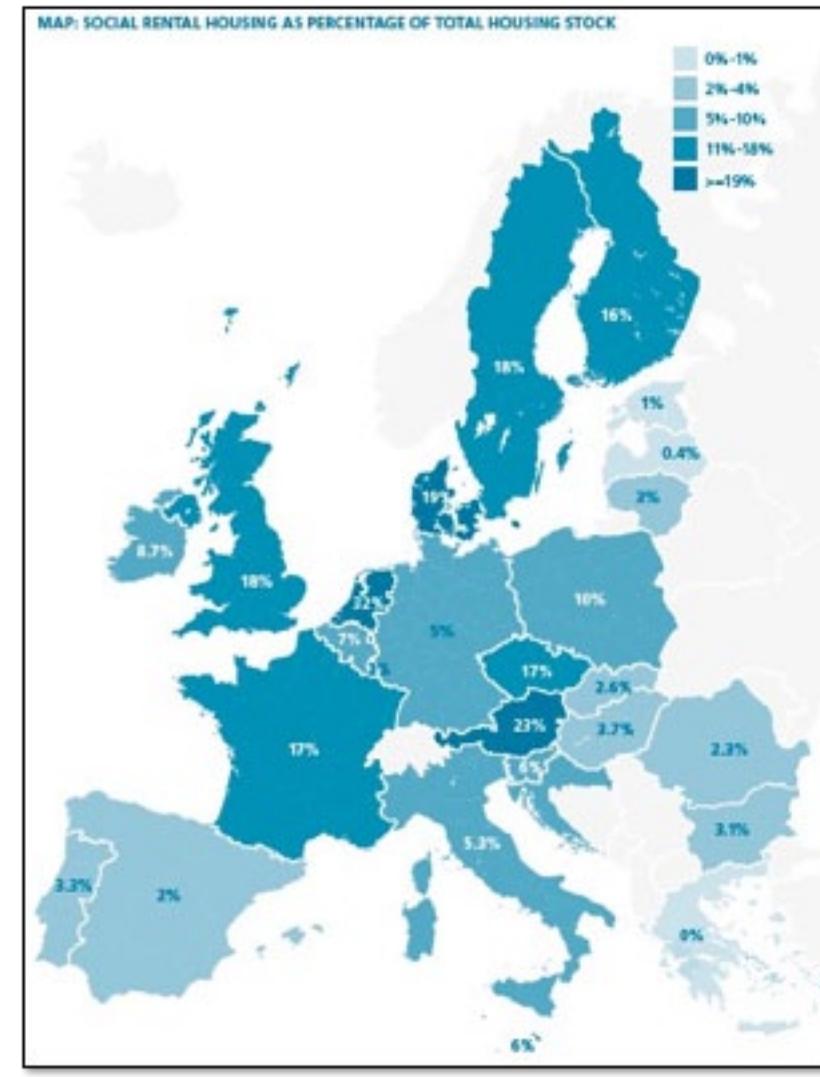
Map of the social housing stock in Europe. Source: Blog Dream

Right to the city or human rights in the city?

The housing commodification, in addition to a public stock of social housing located in dormitory-towns distant from the economic, social and cultural urban centres, soon provoked a strong social rejection materialized in the urban riots that took place in several European cities in the late 1960s. In France, this phenomenon was known as "May 68" and gave way, from a theoretical point of view, to the formulation of the right to the city from Henri Lefebvre's urbanism and critical theory perspective (2009 [1968]). Nevertheless, the 1970s economic crisis and the rise of conservative political forces posed a strong limitation to the possibilities of political incidence for these popular demonstrations. With the Socialist Party, led by François Mitterrand, coming into office in 1981 its closeness to urban social movements motivated the government to boost an urban policy (non-existent until that time) to respond to the problems that kept causing popular riots in urban peripheries (banlieues). But the attempt of carrying out an urban reform based on principles of local participation, decentralization and a complex approach of the problematic (understanding that housing provision and material improvement of these neighbourhoods is only one of the many dimensions of the urban issue, which also comprises unemployment, poverty and school failure in the peripheries) remained limited to the experimental urban projects carried out during the policy preparation. Once institutionalized, this policy ended up establishing a bureaucratized structure that distanced itself from the right to the city principles (Dikec, 2007: 37-67).

After this political attempt, the right to the city fell into oblivion in the European context from a social, political and academic perspective, until its resurgence by late 2000s. Since then, several works from European intellectuals appear, taking a closer look on Lefebvre's writings, such as Brown (2010), Costes (2009 and 2011), Hess (2009a and 2009b), Lethierry (2009a and 2009b), Mayer (2009), Stanek (2008)[2], along with

the first substantive references to this expression in political and legal documents (from the Council of Europe or from local governments) or in social mobilizations (which will become clear in the case studies of Spain, Istanbul and Hamburg).

Even though the concept of the right to the city was not explicitly used until that moment, the concern for guaranteeing human rights on the local level has indeed been a part of the European political imaginary for several decades. There is a wide variety of legal texts and political documents promoted by European institutions and local governments aimed at improving the living standard for the people in the cities. The difference lies in the fact that the political and institutional debate has been eminently situated around the concept of "human rights in the city" and not around the "right to the city" concept (although this one appears, in a more or less developed way, in most of these documents).

Maybe we can find the reason for this by taking a closer look to the process origin in Europe, which was significantly different from the Latin American context. In Latin America, the urbanization phenomenon initiated in the 1920s, and grew very rapidly in few years, especially until 1970, causing serious problems of social exclusion and precarious living conditions to the population's most underprivileged sectors. In Europe, on the other hand, the urbanization process began in the second half the 19th century with the Industrial Revolution, consequently when the right to the city was being conceptualized this region was not facing social problems (in housing, public health, access to water and sanitation, urban planning etc.) with the same graveness that Latin America did.

Probably this explains why, in Europe, the 80s political debate on the urban phenomenon revolved around other issues, centred on matters of democratic nature , particularly, the need to guarantee sufficient political and institutional conditions for the democratic system to unfurl on the local arena. At least, that is what the debates produced at the heart of the Council of Europe since the 1950s indicate, constituting the first indicators recognizing the role of local governments as a governance spheres.

The Council of Europe (CoE) is an intergovernmental organization created after of the World War II with the goal of

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2 Out of Europe, authors like Harvey or Purcell stand out.

safeguarding human rights, democracy and the rule of law in the European continent[3]. In 1954, it was endowed with a specific structure to discuss the urban phenomenon: the Conference of Local and Regional Authorities, which, four decades later, in light of the magnitude of the urbanization phenomenon, would become an advisory body to the CoE in matters of local and regional policies, thus being called Congress of Local and Regional Authorities (CLRA)[4]. Presently, 200,000 local and regional governments from 47 countries members of the CoE compose the Congress and its role within the organization consists in promoting local and regional democracy, improving governance on these government levels within the national framework, and strengthening local autonomy[5]. To the work provided by this body, we own the production of different legal texts that mark the beginning of the process of recognizing cities as key actors in the democratic system. Hereafter, we mention the most relevant texts for purpose of this research: the European Charter of Local Self-Government (1985), the Convention on the Participation of Foreigners in Public Life at Local Level (1992), the European Urban Charter (1992) and the European Urban Charter II (2008).

In 1985 the European Charter of Local Self-Government was adopted (in force since 1988), in which are formally recognized the local autonomy principle and the CoE commitment to preserve it. States signing this instrument implies the will to apply a series of basic standards aimed at guaranteeing the political, administrative and financial independence of local governments; as well as the will to strengthen the mechanisms of political participation for citizens in the public life. The 2009 Additional Protocol on the right to participate in local affairs reinforces the Charter's provisions in this matter.

Some years later, the Convention on the Participation of Foreigners in Public Life at Local Level (in effect since 1997) was elaborated, an instrument that openly recognizes the right to political participation of the migrant population, submitting that the implementation of this right leads to a better integration for those people in the host societies.

In 1992, the European Urban Charter was adopted. This charter, which does not currently hold the convention status (differently from the European Charter of Local Self-Government), gathers in a sole text a series of principles for a quality urban management and a basic spectrum of rights that should be guaranteed by local authorities to all citizens: the right to adequate housing, to health, to mobility, to safety, to a healthy and uncontaminated environment, to work, to sport and leisure, to multicultural integration, to quality urbanism, to political participation, to economic development, to natural wealth, to the harmonization of different aspects of life, to sustainable development, to services and goods, to personal realization, to intermunicipal collaboration, to financial mechanisms and structures, and, finally, to equality. A curious phenomenon draws our attention: the charter's preamble in French is entitled "European Declaration on the right to the city" (Déclaration européenne sur le droit à la ville), while the English version is "European Declaration of urban rights"[6]. According to the information available until this moment, this is the first time the Council of Europe uses the term "right to the city" in a legal text, even if only in its French version. This was probably influenced by the French government led by François Mitterrand (1981-1995) which resorted to this concept to try to establish (unsuccessfully) a new national urban policy based on the right to the city.

This document has been recently revised according to Congress Resolution 269 (2008), which adopts the European Urban Charter II – Manifesto for a new urbanity, developed with the objective of updating the text publicized 15 years before in order to respond the rapid changes that occurred in the European cities. The European Urban Charter II emphasises once more the principles of political participation in local public issues and matters such as the promotion of sustainable

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3 See www.coe.int.

4 According to the Statutory Resolution CM/Res(2007)6, from May 7, 2007.

5 See www.coe.int/t/congress/presentation.

6   The charter is not available in other languages.

development, social cohesion, knowledge, culture and art. Once more, the right to the city is mentioned in the preamble, but only in the French version. In English, the "urban rights" formula is reiterated. Although this charter does not hold a convention status either, the Congress, in its Recommendation 251 (2008), proposed publicizing the document by the Committee of Ministers to all Member-States of the CoE and to international organizations addressing the matter. The Committee of Ministers has not yet pronounced on this matter; consequently, the charter might not have had a great impact.

This is the political and institutional background in which arose in Europe the movement "Cities for Human Rights" whose work would crystallize in the European Charter for the Safeguarding of Human Rights in the City (2000). This movement appeared in the borders of the CoE and the CLRA and was directly led by European cities that shared the political will to comply with human rights in their territories. The work of drafting the Charter began in 1998 during the Cities for Human Rights Conference, organized by the city of Barcelona and attended by mayors and political representatives from hundreds of European cities. The Conference was realized to commemorate the 50th Anniversary of the Universal Declaration of Human Rights and constituted the decisive moment of the articulation, initiated years before, among European cities, NGOs and experts on the issue, all under the same goal: building solidary and egalitarian cities.

Thus originated a process that, two years later, would culminate in the adoption of the European Charter for the Safeguarding of Human Rights in the City, in Saint-Denis (France), currently signed by nearly 400 cities, among which we highlight the strong presence of Spanish (158) and Italian (137) cities, followed by the French (22), German (8) and British (7)[7]. The cycle of conferences that started with the meetings in Barcelona (1998) and Saint-Denis (2000) has continued until today. Every two years, conferences on the Charter have been organized in order to promote the exchange of good practices and the mutual learning. The cities that have welcomed these conferences are: Venice - Italy (2002), Nuremberg - Germany (2004), Lyon - France (2006), Geneva - Switzerland (2008) and Tuzla - Bosnia and Herzegovina (2010). Since the end of 2008, the Charter is promoted in the framework of the world organization of cities, the United Cities and Local Governments (UCLG), through one of its work commissions, the Committee on Social Inclusion, Participatory Democracy and Rights Human[8].

It should substantively stand out that in the European Charter for the Safeguarding of Human Rights in the City the right to the city already appears. It is found in Article 1, entitled "Right to the city", which states:

1. The city is a collective space belonging to all who live in it. These have the right to conditions which allow their own political, social and ecological development but at the same time accepting a commitment to solidarity.

2. The municipal authorities encourage, by all available means, respect for the dignity of all and quality of life of the inhabitants.

(First article of the European Charter for the Safeguarding of Human Rights in the City, 2000)[9].

The Charter also states that the holders of the stated rights are all the people who live in the signatory city, regardless of their nationality. The rights and principles recognized in document are:

- **General provisions:** the right to the city; equality and non-discrimination; cultural, linguistic and religious freedom; protection of the most vulnerable groups and citizens;

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7   See the complete list of signatory cities on the Committee on Social, Inclusion, Participatory Democracy and Human Rights of the Cities and Local Governments website: http://www.uclg-cisdp.org/en/right-to-the-city/european-charter/signatory-cities-list.

8   Cf. *supra*.

9   The complete text of the Global Charter-Agenda for Human Rights in the City is available in the webpage: http://www.uclg-cisdp.org/en/right-to-the-city/world-charter-agenda.

duty of solidarity; inter-municipal cooperation; and the principle of subsidiarity.

- **Civil and political rights in the city:** the right to political participation; right of association, assembly and demonstration; protection of private and family life; and the right to information.

- **Economic, social and cultural rights in the city:** the right to the public services of social protection; the right to education; the right to work; the right to culture; the right to a home; the right to health; the right to the environment; the right to harmonious and sustainable city development; the right to movement and to tranquillity in the city; the right to leisure; consumers' rights.

- **Right relative to democratic local administration:** efficiency of public services; principle of openness.

- **Mechanisms for the implementation of human rights in the city:** local administration of justice (extra-judicial resolution of disputes and arbitration body); police in the city; preventive measures (mediators, municipal *ombudsman* and steering committee); taxation and budgetary mechanisms (participation processes).

The *Final provision* of the Charter establishes a series of mechanisms for its application, such as the individualized signature of the Charter and the adaptation of municipal regulations by each signatory city; the constitution, every two years of a municipal commission to assess these application of the rights; the complaint, made by the signatory cities, of any legal act that violates the rights in the Charter, particularly those arising from the city commitment; and, finally, the establishment of a monitoring mechanism on the European level.

Lastly, the *Additional provisions* refer to the mobilization of the signatory cities so their respective national legislation recognizes the right of political participation of the resident non-national population in local elections; that they request States and the European Union to complete the constitutional human rights declarations and the European Convention on Human Rights (ECHR) so it is possible to execute a jurisdictional control of rights stated in the Charter; that they develop

and implement the environment Agenda 21; that, in case of armed conflict, they ensure the maintenance of the municipal government regarding the rights proclaimed in the Charter; and, finally, that they validate their signature of the Charter in their respective city plenaries.

It should be mentioned that there are European cities that did not sign the European Charter, but, instead, have signed a very similar new instrument: the Global Charter-Agenda for Human Rights in the City. This text was formally adopted by the United Cities and Local Governments (UCLG) in 2011 and, since then, the town of Gavà (Spain) and a total of 24 Belgian cities have signed it: Ottignies, Louvain-la-Neuve, Visé, The Bruyère, Chaumont-Gistoux, Ramillies, Couvin, Schaerbeek, Somme-Leuze, Soignies, Bouillon, Uccle, Courcelles, Genappe, Gesves, Lincent, Thuin, Evère, Nivelles, Ixelles, Neufchâteau, Mons, Vresse-sur-Semois, Huy[10].

Directly inspired by the European Charter for the Safeguarding of Human Rights in the City, the idea of developing a human rights charter of global scope emerged in 2005 in the framework of the Forum of Local Authorities for Social Inclusion and Participative Democracy (FAL), a space of encounter and political reflection for progressive local governments from all over the world, that has been meeting since 2001 in every edition the World Social Forum.

Differently from the European Charter, the Charter-Agenda not only contains a set of human right that the signatory local governments compromise on respecting (the charter) but it also establishes to each human right an action plan (the Agenda), which means a series of political measures aimed at implementing these rights in practice. Likewise, the text incorporates the notion of co-responsibility, introducing obligations regarding each human right to both the local

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10   Information provided by Amnesty International Belgium (Francophone Section) in December 2012. Since 2010, this NGO has promoted an important work around the Charter-Agenda in Belgium, which has result in the elaboration of a guide to the implementation of the Charter-Agenda (available in the webpage: www.lesdroitshumainsaucoeurdelacite.org) and the adoption of the document by some of the above-mentioned municipalities.

government and the citizens. Regarding the rights entitlement, the Charter-Agenda does not distance itself from the European Charter and grants them to all city inhabitants, regardless of permanent address[11].

Considering this is a document of global scope, the spectrum of human rights collected in the Charter follows a lower common denominator that makes it acceptable in cities of different environments. Thus, paragraph A of the final provisions provides that the signing of the Charter-Agenda will involve implementing a local process to adapt the text through a participatory process with the population. The rights contained in the Charter-Agenda are: the right to the city; the right to participatory democracy; the right to civic peace and safety in the city; the right of women and men to equality; the right of children; the right to accessible public services; freedom of conscience and religion, opinion and information; the right to peaceful meeting, association and to form a trade union; cultural rights; the right to housing and domicile; the right to clean water and food; and the right to sustainable urban development. Their guiding principles are human dignity; freedom; equality; non-discrimination; recognition of differences; social inclusion and justice; democracy and popular participation; universal, indivisible and interdependent human rights; social and environmental sustainability; cooperation and solidarity; and joint responsibility.

Once more, the right to the city appears in the first article of the Charter-Agenda, though, this time, with a greater development:

1.

a. *All city inhabitants have the right to a city constituted as a local political community that ensures adequate living conditions for all the people, and provides good coexistence among all its inhabitants, and between them and the local authority.*

b. *Every man and woman benefit from all rights enunciated in the present Charter-Agenda and are full-fledged actors of the life of the city.*

c. *All city inhabitants have the right to participate in the configuration and coordination of territory as a basic space and foundation for peaceful life and coexistence.*

d. *All city inhabitants have the right to available spaces and resources allowing them to be active citizens. The working and common spaces shall be respectful of everyone else's values and of the value of pluralism.*

2.

The city offers its inhabitants all available means to exercise their rights. The signatories of the Charter are encouraged to develop contact with neighbouring cities and territories with the aim of building caring communities and regional capitals. As a framework and summary of all rights provided for in this Charter-Agenda, the above right will be satisfied to the degree in which each and every one of the rights described therein are fully effective and guaranteed domestically.

(First Article of the Global Charter-Agenda for Human Rights in the City, UCLG, 2012)

As we can see, the progressive recognition of local governments in the political sphere and the deepening of the European decentralization process have motivated the emergence of the human rights discourse in the city. This new political narrative has allowed overcoming the State-centric human rights vision , that is, to understand that implementing human rights should happen on all different government levels, not only consideringthe national government approach. This change in perspective has three potentially important consequences. Firstly, a better guarantee to human rights as a whole, since the central State is not the only one safeguarding them, making sure they are respected, guaranteed and implemented, but the municipality is also responsible for doing so. Secondly, a better guarantee of the economic, social and cultural rights in particular (traditionally less protected)

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11   The complete text of the Global Charter-Agenda for Human Rights in the City is available in the webpage: http://www.uclg-cisdp.org/en/right-to-the-city/world-charter-agenda.

since the public services that affect the exercise of several of these rights (housing, education, health, access to the water, etc.) depend on the municipalities. Finally, strengthening the political rights, which find in the local scenario a suitable space for their embodiment. The cities are communities in which the exercise of the right to political participation and democratic control can yield daily and closely. The cities can be, consequently, empowered schools of active citizenship, that is to say, the first step in learning the values and the functioning of a democracy.

Nevertheless, it is important to stress that the existence of municipal charters is not a guarantee per se for implementing human rights or the right to the city on a local level. For doing so, it is required the convergence of several factors: first, a mobilized civil society that actively participates in the city public life and claims for the respect of these charters; second, a strong political will from the municipal government that pivots towards the leadership of the mayor; and, finally, the mainstreaming and institutionalization of the human rights/right to the city policy, that is to say, that the political strategy of the city is built with a human rights approach that inspires the set of local government sectoral policies and that the municipal structures equipped with human and financial resources are created to safeguard the implementation of this strategy. Without these conditions, adopting this kind of instrument might only remain a symbolic act by a certain government team without either real political effectiveness or permanence over time. The European region is an example of this situation, since the signature of the European Charter for the Safeguarding of Human Rights in the City by 400 municipalities has not translated into a municipalist wave of human rights protection and guarantee. In some cases, certain structures or political initiatives were put into operation (human rights councils, local ombudsman, alert commissions, programs for sensitizing the population etc.). However, despite the value they individually have, they generally have a marginal character within the local government global policy.

The Right to the City in Spain

The role of local governments

Spain, a country that has over 47 million inhabitants, is territorially organized as a quasi-federal state (officially called autonomous communities, *Estado de las autonomías* in Spanish), with a significant degree of decentralization. As we will see in this chapter, the struggle for the right to the city in this context, clearly reflects the European trend outlined in the first chapter: the "human rights in the city" discourse and the articulation of social struggles around the right to housing. Regarding the former, the work promoted on the "municipalization" of human rights has originated, in large part, in the European Charter for the Safeguarding of Human Rights in the City. In fact, its impact in the Spanish State is more than considerable since, from the 400 signatory cities, almost 40% (158 in total) are Spanish. Moreover, of these, 90% (144 cities) are located in only one autonomous community: Catalonia, especially in the province of Barcelona[12]. The Charter's origin - it started being discussed in 1998 in Barcelona - has probably influenced a lot in.

Considering the amount of examples concentrated in the Barcelona province, we considered relevant to analyse this experience because it can bring elements for an interesting reflection on the tendencies, potentials and challenges found when locally applying human rights and the right to the city.

Within this territorial framework, the role played by the **city of Barcelona** and by the province of Barcelona should be especially stressed. Barcelona city has been widely studied by the political scientist Michele Grigolo (2011a and 2011b) and we underline the following initiatives: the creation of a Council of Civil Rights, the implementation of two municipal services to safeguard human rights (the Office for Non-Discrimination and the Office of Religious Affairs), the creation of a local *ombudsman* (the *síndic de greuges*), multiple actions of sensitization and training on human rights, the creation of an Human Rights Observatory and the adoption of a Barcelona Charter of Rights and Duties (2010)[13].

The government of the **province of Barcelona**, the D*iputació de Barcelona*, hhas also played a key role in the publicizing and consultancy of the European Charter for the Safeguarding of Human Rights in the City in the 311 municipalities that compose the province territory. We particularly highlight the creation in 2003 of a Towns and Cities Network for Human Rights (the *Xarxa de Pobles i Ciutats pels Drets Humans*)[14] with the mission of providing support to the municipalities of the province in order to make the main right of the European Charter for the Safeguarding of Human Rights in the City and the one that synthesizes it fully: the right to the city a reality (Diputació de Barcelona, 2007: 7)[15]. Once again, it comes to our attention the reference to the "right to the city". As we have seen on the Council of Europe, seem to use the right to the city more as a type of statement of intentions, more than as a concrete instrument susceptible to being translated into political actions that allow advancing in the construction of equal, democratic and solidary cities.

Nowadays, among the 311 municipalities of the Barcelona province, 147[16] are signatory of the European Charter because of the work undertook by the Diputaciò de Barcelona through this Network. The profile of these municipalities is significantly

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12   V. http://www.uclg-cisdp.org/en/right-to-the-city/european-charter/signatory-cities-list (webpage of the UCLG Committee of Social Inclusion, Participatory Democracy and Human Rights).

13   For more information, check the Barcelona City Council website: http://110.bcn.cat/portal/site/DretsCivils.

14   nspired by this network, a Majorca Cities and Towns Network for Human Rights was created in 2009 in Majorca, which is still in construction phase. See http://www.conselldemallorca.net/?id_section=4465&id_parent=492 .

15   The original text: "( ) amb l'objectiu de donar suport als municipis per materialitzar el principal dret de la Carta Europea de Salvaguarda dels Drets Humans a la Ciutat i que la sintetitza plenament: el «dret a la ciutat»". [Translator's note] Translation to English based on the author's translation to Spanish

16   The full list of signatory towns and cities is available on webpage of the Towns and Cities Network for Human Rights: http://www.diba.cat/es/web/acciocomunitariaparticipacio/membresxarxa.

heterogeneous, they range from metropolis (like the city of Barcelona, with over 1.5 million inhabitants) to small rural villages with 200 inhabitants, as well as intermediate cities inside and out the Barcelona metropolitan belt (Saura, 2010: 9).

Among the different activities conducted by the Province of Barcelona, the most recent one has been the consulting work in the municipalities, which translated into the elaboration of several materials directed at translating human rights into local public policies. As previously noted, one of the challenges of the human rights charters is the signatory town actually using them as framework to the human rights mainstreaming and institutionalization. The materials produced by the Province of Barcelona are aimed precisely at encouraging this task by providing several tools: a guide for the adaptation of municipal regulations to the European Charter for the Safeguarding of Human Rights in the City (Diputaciò de Barcelona, 2007), a guide for creating local *ombudsmen* (Diputaciò de Barcelona, 2008) and a guide project for strategic planning of municipal policies focusing on human rights.

The Guide for the Adaptation of Municipal Regulations to the Charter aims at facilitating the work of signatory towns and cities regarding the implementation of the second item of the Charter's Final Provision, by which "The signatory cities will incorporate into their local ordinances the principles, regulations and guarantee mechanisms laid down in this Charter". Thus, the guide comprises a set of orientations for applying and developing the charter content in the municipal legal framework (Diputaciò de Barcelona, 2007: 7). These orientations are diverse and comprise, among others, the following actions: adopting municipal regulations or rules (a regulation of popular participation, a charter of people's rights and duties regarding the municipal administration, etc.); implementing municipal citizens' advice services; creating of sectoral participation bodies; approving specific plans (of accessibility, social housing development, health, etc.); establishing fiscal benefits to certain groups or goods; training elected members and public workers; reserving urban soil to certain social purposes (construction of residential services to persons with disabilities or to elder people, nurseries, etc.); signing agreements with the private sector (for example, with companies suppliers of electricity,

gas and water services, in order to avoid cutting the supply of families with economic difficulties, etc.); establishing certain (social or environmental) clauses in the processes of public procurement or of granting subsidies, etc.

The Guide for the Creation of Local Ombudsmen responds to what is established in the article 27.1 of the European Charter for the Safeguarding of Human Rights in the City regarding to implementation of mechanisms to guarantee the human rights in the city. Doubtlessly, the role of the local ombudsman should receive a special attention because of his/her widespread presence in the Spanish, and above all Catalan, geography. In Catalonia, there are 42 municipalities[17] have this figure and even a network that articulates them, the SD Forum – Trustees and Local Defenders (*Forum SD - Síndics, Síndiques, Defensors i Defensores Locals*). Its mission is to promote the awareness and the development of the institution, to facilitate its implementation in the municipalities and to provide information, support, exchange and consultation to the local ombudsman[18]. Although the European Charter probably contributed to the proliferation of local trustees, it should be noted that, in some cities, the institution was created before adopting the Charter, the Lleida municipality was the first one to establish a local defender in 1990. Regarding the Spanish State, the absence of a national platform or structure that articulates the local trustees makes it difficult to know how many cities have created this institution, however, according to the *Fòrum SD*[19], nearly a dozen of cities outside the province of Catalonia have implemented it.

Finally, the Guide for the Strategic Planning of Municipal Policies with a Human Rights Approach (the so-called "Local Agenda for Human Rights in the City") is still under draft phase. Although it is unknown whether this draft will materialize in

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17   The list of municipalities that have created a local ombudsman is available at www.forumsd.cat/enllacos/sindicatures-locals-de-catalunya/.

18   See www.forumsd.cat/inici.

19   See www.forumsd.cat/enllacos/resta-de-lestat/ and http://www.forumsd.cat/la-sindicatura-local/que-es, which list the following cities: Calvià, Gandia, Jerez, Palma de Mallorca, Paterna, Segovia, Vigo and Vitoria-Gasteiz.

a new guide, we considered important to mention it due to its pioneer character[20]. This future guide is conceived as a methodological tool to respond the item 4 of the Charter's Final Provision, which establishes that "The signatory cities undertake to set up a commission which every two years is called upon to evaluate the implementation of the rights laid down in this Charter and publish their findings". Under this clause, the Province of Barcelona has elaborated a methodology so the signatory cities can conduct a strategic planning for their public policies in a manner that guarantees the Charter's principles or rights, as well as a periodic review of their realization level. The current draft seeks to guide the municipal action for: (I) diagnosing the human rights status in the city (a quantitative and qualitative participatory analysis of municipal policies); (II) drafting the human rights local agenda through an inclusive debate (strategic lines, objectives, projects or programs, indicators, resources, timetable for its implementation, who is responsible); (III) implementing participatory measures for execution and evaluation (Follow Up Commission or Commission of Alert). Until now, pilot tests have been implemented in three municipalities of the Towns and Cities Network for Human Rights of the Barcelona[21].

Ultimately, these guides seek to strengthen the legally binding character of the Charter and the creation of human rights structures within the municipal organization chart (institutionalization of the municipal human rights policy), as well as to promote an integral (multi-sectoral) approach and the strategic planning of the human rights policy (mainstreaming of the municipal human rights policy). In this regard, the work of the Province of Barcelona in promoting local human rights policies and technical consultation to its design and implementation is pioneer in the European arena. Therefore, it is not strange that the Province territory concentrates

the highest signature rate of the European Charter for the Safeguarding of Human Rights in the City.

However, despite this high number of signatory cities having a non-negligible symbolic value, it does not necessarily mean a significant use of the European Charter in the local political action, as revealed by the report commissioned by the Diputaciò de Barcelona to assess the 10 years of the Charter's existence (Saura, 2011). Although the study does not have a comprehensive character, since it does not analyse all the members of the Towns and Cities Network for Human Rights in the City , we believe its conclusions are representative of several tendencies that illustrate some of the challenges presented by the effectiveness of this kind of instrument.

The report notes there is a high level of ignorance regarding the Charter, from either the population or the local administration. Even though, to be a member of the Towns and Cities Network for Human Rights in the City, it is required to sign the document through an agreement with the municipal government which is generally followed by a public act to the population, it was found "a significant extent of ignorance regarding the Charter's very existence and, even when people are aware of its existence, there is little awareness regarding its detailed content". The exceptions to this phenomenon are the local ombudsmen (in those municipalities where this figure exists), the civil society organizations that are more active in defending human rights (often using the Charter as basis of their demands) and some people politically responsible for promoting the Charter within the municipal organization structure (Saura, 2011: 124-125).

Furthermore, even in those cases where there is a higher level of awareness regarding the Charter, it seems it is not used for designing municipal human rights policies; it serves as "inspiration", "guidance", "frame" or "axis" and, ultimately, as an instrument that allows creating discourse (Saura, 2011: 125). This verification is congruent with the fact that the Charter's signature has frequently not been accompanied by its incorporation to the municipal legal framework through an ordinance (Saura, 2011: 132), despite of the Province's efforts in providing technical tools to facilitate this task (the Guide for the Adaptation of Municipal Regulations to the European Charter).

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20   According to information provided by the team that worked on this project, the change of political leadership occurred in the heart of the Deputaciò de Barcelona as a result of the 2011 municipal elections has paralyzed this project.

21   Specifically, in Sant Boi, Santa Perpetua de Mogoda and Cubelles. The pilot tests took place between 2009 and 2010.

Among the most implemented rights and principles, the economic and social rights (right to environment, education, health, housing, work or consumer rights), the right to information or the principle of protecting the most vulnerable groups, the right to gender equality and to good governance stand out (Saura, 2011: 2008).

An interesting reflection follows from the conclusions of this report. The Province of Barcelona has several elements that could lead to an effective deployment of the European Charter for the Safeguarding of Human Rights in the City: the highest European concentration of signatory municipalities; the existence of a network that articulates them and stimulates mutual learning and exchanging experiences; and the technical assistance of a supramunicipal organization (the Province of Barcelona) that has provided these municipalities several methodological tools, technical support and financial means to implement the document. Still, we cannot say the Charter is a reality in the 147 municipalities members of the Towns and Cities Network for Human Rights. In this regards, the study identifies the following factors as key elements to obtain higher effectiveness: the institutionalization and mainstreaming of the Charter, a strong leadership of the Mayor in this matter and sufficient financial funding (Saura, 2011: 125-127). To this, we would add the importance of popular mobilizations as an element of pressure for fulfilling the municipalities' human rights commitments.

Popular mobilizations: the Platform for People Affected by Mortgages[22]

Regarding the popular mobilizations that are taking place in Spain linked to the right to the city, we highlight the ones built

upon the right to housing, particularly upon the struggle against the evictions of the people and families that cannot cope with mortgages payment. Since 2008, this issue has affected a great number of people, resulting in a severe housing crisis.

The housing issue in Spain comes from the combination of several factors: fiscal policies that favour the access to housing through ownership (at the expense of rent), making it an investment asset; the deregulation of the mortgage market; housing policies with low public expenditure in social housing, and, finally, economic and employment policies based on the construction industry. While the first two factors (favouring housing property and liberalizing the mortgage market) are representative of a widespread tendency in Europe (and worldwide) as we saw in the first chapter, the last ones (little social housing and construction boom) are typical of the Spanish context, as well as of other countries from Southern Europe, like Portugal or Greece.

The origin of the promotion of home ownership and of the economic and employment policies based on the construction industry dates back to the 40s, during the Franco dictatorship. To this day, its evolution can be synthesized in the following major real estate cycles: the first stage had its climax in the early 70s (with the construction of half a million dwellings), but it slowed down because of the oil crisis; the second stage began in mid-80s, a time of recovery for the industry, and developed until 1992, the year of the Olympic Games in Barcelona, when there was a fresh breath to the housing and infrastructure construction industry; finally, the most recent expansion phase, from mid-90s to 2008, was a lot more intense than the previous ones as a result of higher international liquidity, and it came to an end with the US real estate market crash and the subsequent world economic crisis (Naredo, 2009: 121). The result was massive construction in the country at the expense of other economic sectors:

The increasing weight of the real estate business and the housing and infrastructure construction, essential collaborator of this business, happened in parallel with the industrial and agriculture dismantling witnessed after the Spanish adhesion to the European Union. Therefore,

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22   For this section, we had the collaboration of Sofia Dowbor, graduate in International Relations by the Pontifical Catholic University of São Paulo (PUC-SP, Brazil) and master student in Social Policies and Community Mediation (IGOP - Autonomous University of Barcelona, Spain).

the building industry was erected in the true national industry, whose economic weight was rising well above the European average, even though Spain already had more housing and highway kilometres per capita than other European countries. (Naredo, 2010: 13)

Indeed, the third cycle experienced an unprecedented development, growing almost 30% between 1998 and 2007 (Arellano and Bentolila, 2009: 28). However, the increase in housing supply did not result in a decrease in its price. Conversely, the price went from 326Đ/m2 to 2,905Đ /m2 in a 22-year period, from 1985 to 2007 (Andrew, 2013). Therefore, while the housing price was nine times bigger in the same period, the minimum interprofessional wage increased only 2.5 times. In that moment, the only viable solution to continue channelling the family savings for home ownership acquisition was by the banking institutions extending the mortgage debt years (to periods of 50 years). Progressively, the family income was more and more destined to housing finance. The following data illustrates well this phenomenon: between 1997 and 2007, the amount of income necessary to pay the mortgage tripled, going from 50,786 to 149,007 euros (Colau and Alemany, 2012: 65). Still, this was the option chosen by a great part of the Spanish population. In fact, there were few alternatives: on one hand, the Spanish social housing stock corresponds to mere 2% of the total stock, as seen in the first chapter, on the other, the private rental market became a highly speculative sector given the lack of limits for increasing the income.

To complete this panorama, we need to add some elements to this situation of excessive housing construction, high financial speculation in the real estate sector and mass access to banking mortgage for purchasing homes. By converting housing into an investment asset, the tendency to buy second homes as a way to capitalize personal wealth was generalized, resulting in bigger chances of profit for the banking and construction sectors. Moreover, the profitable potential of these activities generated serious corruption problems featuring certain sectors of the political class (responsible for granting construction licenses) and entrepreneurs[23].

The report the UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, developed in 2008 after a mission conducted in Spain[24], warned about the seriousness of an issue that ended up bursting when the negative consequences of the Spanish housing and economic policies converged with the 2008 world financial crisis. That year, the collapse of the "housing bubble" and the subsequent job loss created a situation in which many families and people who had accessed the housing market when the economic situation was buoyant were not able to keep paying their mortgage. The creditor banking institution that, during the economic growth years, stimulated the consumption of financial credit, activated the foreclosure sale procedure, which in general works as follows: first, the funding banking institution requests the payment of the debt through legal claim; if the payment is not given, it proceeds to auction the mortgaged asset (the house). Considering the crisis context and the surplus of houses built, usually, in this case, the bidders usually do not attend the auction and the creditor keeps the property for 60% of the estimated house value (this is the minimum required by law in the circumstances of main residence), then, it proceeds to evict the residence owner. The mortgage debt has been settled in 60% of the assessed value, which does not corresponds to the purchase value (usually higher), therefore the creditor institution can continue claiming the remaining debt, to which will be added the delay interests and the court coasts. If this new debt is not paid, it can proceed to seizure the mortgage holders and their guarantors. This procedure has drawn a bleak panorama in housing, for evicting thousands families. According to official data, since 2008, over 400,000 foreclosures have been under way, resulting, by the end of 2013, in 250,000

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23   For a detailed analysis on the right to housing situation in Spain, cf. Pisarello (2011): 43- 49.

24   Cf. report the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari. Addendum, Mission to Spain (A/HRC/7/16/Add.2).

evictions (Observatori DESC and Plataforma de Afectados por la Hipoteca, 2013: 139).

The severity of this situation motivated the creation, in 2009, of a popular platform, the Platform for People Affected by Mortgages (PAH, in Spanish). The group emerged from the mobilization of several social movements that, for years, have been fighting against the housing commodification and had been initially organized around the "H of Housing" platform (V de Vivienda). Yet, considering the situation recrudesced because of the context of economic crisis and the numerous foreclosure procedures, the PAH was established under the motto of modifying the legislation applied to this kind of procedure. However, the social drama installed in the country by the evictions context resulted in the incorporation of other targets, in medium and short terms: (I) to peacefully stop the evictions; (II) to convert foreclosed residences into social rentals; and (III) to obtain the nonrecourse debt (dación en pago), i.e., cancelling the mortgage debt when the house is returned to the banking institution (Colau and Alemany, 2012: 107).

This social mobilization started in the city of Barcelona, but soon expanded to the rest of the Spanish state and, nowadays, is a national movement. Regarding its organization, the PAH is structured as a pluralistic and nonpartisan group, functioning in an assembly style, that develops its work from the neighbourhoods or municipalities (there are 200 local platforms) and is articulated on the national level. Its work logic is based on the people affected by the evictions transforming themselves from victims to militants and overcoming the internalized feeling of guilt as a consequence of the social stigma of being debtors. Therefore, the PAH has managed to convert an apparently individual problem into a solidary and collective struggle to pressure the institutions to adopt political solutions.

Regarding its work, besides providing direct support and legal advice to the victims of evictions, the PAH has positioned itself in the Spanish panorama as a new political actor that fights to obtain legislative changes that strengthen the right to housing protection. Accordingly, in March 2010, the PAH, along with other social groups, presented a popular legislative initiative (ILP, in Spanish) to the Congress of Deputies of Spain, containing a bill on the regulation of the nonrecourse debt,

the suspension of evictions and social rent (the possibility that the people affected by this process remain in their residences under a social rental regime). The initiative received surprising social support, which translated into almost a million and a half signatures: three times the required minimum to submit it to the Congress. However, despite its great social support, the ILP admission for processing has not been easy.

Two years later, the Congress of Deputies approved Law 1/2013, of May 14, 2013, with urgent measures to strengthen the protection to mortgage debtors, the debt restructuring debt and social rent (known as Ley Antidesahucios, the Anti-Eviction Law). The PAH has severely criticized this law, claiming, among other reasons, that it distorts the ILP, goes against international human rights pacts and conventions and does not offer effective solutions for most affected people (PAH, 2013). Thus, the group decided to symbolically withdraw the bill and to promote the submission of a constitutional complaint before the Constitutional Court, who has not pronounced on the matter yet. However, the Court of Justice of the European Union has pronounced on the matter, in its sentence of July 17, 2014[25], establishing that the Law 1/2013 contravenes the right to fundamental protection recognized in article 47 of the Charter of Fundamental Rights of the European Union.

Parallel to this political pressure, since November 2010, the PAH has been conducting a campaign to peacefully halt evictions. The "Stop Evictions" campaign (*Stop Desahucios*) promotes actions of civil disobedience and passive resistance to the foreclosures and eviction notifications, gathering concentrations in front of the residences of the people or family affected and preventing the entry of bailiffs. Until now, it has managed to stop over a thousand evictions in the entire country.

The situation in Spain is paradoxical because, while it has the highest volume of empty homes in the entire region[26], the

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25   Sentence of the Court of Justice of the European Union (First Division), Case C-169/14, Sánchez Morcillo/April Garcia vs BBVA.

26   13.7% of the Spanish homes are empty, compared to 8% in Germany, 6.3% in France or 1.5% in the Netherlands (Observatori DESC and Platforma de Afectados por la Hipoteca, 2013: 10).

cases of evictions continue to increase. According to the latest available data, there are currently 3.5 million empty houses in the country, of which 600,000 are estimated to be property of financial institutions (Observatori DESC and Plataforma de Afectados por la Hipoteca, 2013: 139). In order to recover these houses and rehouse the evicted families in them, the Platform launched, in September 2011, the campaign "PAH Social Work" (Obra social de la PAH), which consists in identifying estates with uninhabited residences, checking if the property belongs to a banking institution and lodging the evicted families in them[27]. Generally, the owner institution opens a legal proceeding to vacate the estate, but, since this can last several months or even years, the families have access to a place to be housed for a while.

Because of the group's pressure, the Government reacted in March 2012 by approving a Code of Best Practices, which the banking institutions can volunteer to follow, recommending the restructuring of the mortgage debt, the fixation of an acquittance (total or partial cancellation of the debt) or the nonrecourse debt if certain requirements are met. According to the result of a poll performed by the PAH with over 700,000 families in the whole country, these requirements are very difficult to fulfil, so, in practice, "even if all the financial institutions decided to implement the code, almost every family will be left out" (PAH, 2012).

Some months later, because of the housing situation continued to deteriorate, the Government announced a new social measure: the creation of a Social Fund for Housing (Fondo Social de Viviendas - FSV, in Spanish) to attend families in a specially vulnerable situation evicted from their homes after January 1st, 2008. In this framework, 33 financial institutions contributed with 5,891 homes for the creation of the FSV. However, of the nearly six thousand residences, only a little more than 700 have been allocated (13% of the total amount). Even the Spanish government recently acknowledged its dissatisfaction with the Fund's results and the need to

reorient the criteria for allocating the homes so the evicted families could access them (The Boletín.com, 2014).

Considering the severity of the housing issue in Spain, this set of measures proposed by the government is not sufficient to address it. Several sectors from State institutions, along with a vast public opinion, have voiced the need to modify the legislation in force regarding foreclosures, which leaves to the affected people in a situation of great vulnerability. In the legal scope, for example, several judges have positioned themselves in this regard. Navarra's Provincial Court (*Audiencia Provincial de Navarra*) issued the first resolution endorsing the nonrecourse debt in late-2010[28], in which the judge iinvoked data regarding the former estate value to consider the debt cancellation. Subsequently, three more resolutions in this line were issued by the Provincial Courts of Lleida, Girona and Madrid[29]. Lleida legal decree states:

The 2011 economic panorama has nothing to do with that of 2006, 2007 and 2008 when the crisis was emerging. Surely, the estate now has a market value inferior to the price agreed, but is it fair that the debtor suffers all the impact of this decline? (...) Would not it be fairer if the institutions also endured a part? (...) Economists agree in considering the value losses of the estate have been produced by the very financial institutions with their bad management.[30]

Another example of judicial support, this time from an instance hierarchically superior to the Provincial Courts, was expressed by the Superior Court of Justice of the Murcia region that, in October 2011, made an appeal to the Legislative to

27 See http://afectadosporlahipoteca.com/category/propuestas-pah/obra_social_la_pah/.

28 See Auto de la Sección Segunda de la Audiencia Provincial de Navarra, No. 111/2010.

29 Decreto 29/12/2011, del Juzgado de Primera Instancia número 5 de Lleida; Resolución 119/2011, de la Sección Segunda de la Audiencia Provincial de Girona and Resolución de 10 de enero de 2012, del Juzgado de Instrucción número 3 de Torrejón de Ardoz, en Madrid.

30 See supra.

modify the mortgage regulations and admits the nonrecourse debt in the legislation.

A considerable number of municipal administrations have also been sensitive to the demands from the PAH, urging the municipalities to approve motions for the application of measures protecting the right to housing. One of the campaigns launched in this regard, directed for the time being at Catalan municipalities, demands sanctioning financial institutions with a maximum amount of 500,000 euros for each residence in its name that is vacant for over two years without justifiable reasons. Although this measure was contemplated by the legislation in force[31], no city council had applied it until recently. The motion was launched in December 2013 and, in only eight months, it has been approved in almost a hundred Catalan municipalities, while its approval is pending in other 44[32]. However, the city of Terrassa (213,000 inhabitants), located in the Barcelona province, is the only municipality which has applied this sanction to three banking institutions, with a total amount of 5,000 euros in fines.

In addition, three other motions are being launched: (I) a motion for approving a grant to the people affected by foreclosure processes and the dación en pago of the mortgage debt for main and permanent residences that are bound to pay the land value tax; (II) a motion for the cautionary suspension of the land value tax liquidation for people affected by foreclosure processes and the dación en pago of the mortgage debt for main and permanent residences; (III) a motion urging the State government to modify the Mortgage Law in order to regulate the nonrecourse debt and to adopt the necessary measures to avoid evictions based on economic reasons. The first and second motions seek to avoid the payment of the land value tax, a municipal tax applied when there is dación en pago or eviction. The third one seeks to increase the pressure for the legal recognition of the possibility to suspend the debt if the mortgaged property is returned to the bank.

In a whole, these motions have been approved by almost 300 municipalities, 60 of which are signatory of the European Charter for the Safeguarding of Human Rights in the City (Saint-Denis, 2000). We do not know to what extent this has played a role in the political positioning of these municipalities, but it can probably be an indicative of a certain political sensitivity.

The balance of the five-year existence of the PAH is not negligible: over 1,000 evictions paralyzed, over 1,000 people resettled, thousands of daciones en pago and social rents regularized and over 1.5 million signatures collected supporting the Popular Legislative Initiative (PAH, 2014). Although the media in Spain does not offer much coverage of this work, the Platform's achievements have been internationally recognized, by the United Nations, the European Union and the international press (BBC, Al Jazeera) (Colau and Alemany, 2012: 160). Maybe the greatest recognition came from the European Parliament, which awarded the 2013 European Citizen's Prize to the PAH. With this award, the European Union welcomes the work developed since 2008 by "the exceptional people or organizations that fight for the European values, (…), and to those that daily seek to promote the values of the Charter of Fundamental Rights of the European Union"[33]. Surely, the key for the PAH success has been transforming a problem that is individually lived in a collective struggle.

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31   The Catalan Right to Housing Law 18/2007, despite planning fines to the banking institutions owners of empty houses, raises other measures aimed at guaranteeing the social role of the property, such as putting the empty homes at the disposal for an affordable rent or authorize the temporary expropriation of usufruct for permanently or unjustified abandoned houses. Inspired by this law, subsequent bills or adopted laws were launched in the regions of the País Vasco, Andalucía or Navarra. For more details, see Pisarello, 2011: 46-47.

32   The list of Catalan municipalities that have approved this motion is available at http://afectadosporlahipoteca.com/mociones-ayuntamientos/.

33   See European Parliament's website (Spanish): http://www.europarl.es/es/sala_de_prensa/communicados_de_prensa/pr-2013/pr-2013-september/pr-2013-sep-6/premio.html;jsessionid=F594AEFA9D7B42F7C9449C184295D11A.

The Right to the City in Italy[34]

"The commons can be seen as an intellectual position and a political philosophy; as a set of social attitudes and commitments, as an experimental way of being and a spiritual provision [...]. But the truth is the commons are all this. They offer a fresh vocabulary and a logic that allows us to escape the dead end of the market fundamentalist policies and economies [as well as] to develop more humane alternatives [...]" (Bollier and Helfrich, 2012, p. xiii).

Mapping the Italian context: the relevance of the commons

Italy is one of the Southern Europe countries and it has over 59 million inhabitants. In this case, the explicit references to the right to the city are scarce and have appeared mainly as a result of the work developed by the Eddyburg communication platform[35], which is currently one of the greatest alternative communication spaces, which addresses urban themes in a specific way, among other issues related to territory transformation, access to land and the right to tenure. Eddburg has helped spread the right to the city concept through several kinds of activities: communication, training, political advocacy and transnational articulation. For example, it is noteworthy the wide diffusion of David Harvey's thinking[36], the organization of Summer Schools that have explored different aspects concerning the right to the city (particularly in the 2009, 2010 and 2011 editions); the presentation of or support to bills centred on some of the right to the city elements[37]; the

organization of seminars on territory transformation and the right to the city in worldwide forums, like the Nairobi World Social Forum (2007), the European Social Forum in Malmö (2008) or the Urban Social Forum in Naples (2012)[38].

Among these events, one is specially noteworthy: the forum held in Malmö with the title "The city as a common good" (*La città come bene comune*). And it seems, especially since 2010, the issue that has most mobilized certain social movements, local authorities and intellectuals is the one regarding the common (and its derivative, the urban common goods), presenting several convergences with the agenda for the right to the city, as we will try to present in this chapter.

Among the different networks and initiatives that have emerged in the last few years, the following are noteworthy: (1) the multimedia platform Global Project.info[39]; (2) the Forum of Water Movements (*Forum Italiano dei Movimenti per l'Acqua)*[40]; (3) the Territorialists Society (*Societá dei Territorialisti*)[41]; (4) the Network of Commissions for the Common Goods in Puglia the region (*Rete dei Comitati per i Beni Comuni*)[42]; (5) the New Municipality Network (*Rete the Nuovo Municipio*) that operated from 2002 to 2010[43]; (6) the Association of Virtuous

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Principles Concerning Territorial Planning (2006) and the Bill for the Protection of Non-Urbanized Territory (2013). In parallel, it has supported the Popular Initiative Bill on the Right to Housing and to the Habitat (2009), promoted in the Rome and El Lazio regional level in by the Caravan "City Common Good" (*Città Bene Comune*), integrated by the Mutual Support Network (*Rete of mutual soccorso*) and the Citizens Network for the Right to the Habitat (*Rete cittadina per il diritto all'abitare*).

38   To an exhaustive list of the activities or events on the right to the city, see http://www.eddyburg.it/2013/05/il-diritto-alla-citta-su-eddyburg.html. Several of them were organized with the Asociación Zona Onlus (http://www.zoneassociation.org/).

39   It is especially interesting the community on the common goods: www.globalproject.info/it/tags/beni-comuni/community.

40   See www.acquabenecomune.org/.

41   See www.societadeiterritorialisti.it.

42   See www.benicomuni.org.

43   See http://nuovomunicipio.net/chisiamo.htm.

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34   This chapter has been prepared with the invaluable assistance of Giulio Mattiazzi and Michelangelo Sechi.

35   See http://www.eddyburg.it/.

36   See Harvey's multiple articles on the Eddyburg webpage.

37   Eddyburg has presented the Popular Initiative Bill on Fundamental

City Councils (*Associazione dei Comuni Virtuosi*)[44]; (7) the University of Common Goods (*Universitá the Bene Comune*)[45]; and (8) the Common Good Monastery Association, which since 2013 organizes an Itinerant School of Commons Goods

Despite their plurality and heterogeneity, both the approach and the composition of all these stakeholders and proposals include a citizen component (either through individuals, or through social movements) and converge with the right to the city agenda to defend the following elements: (I) a balanced relation between country and city; (II) collective rights; (III) intermunicipal work; (IV) a new social pact that supports an urban sociability based on non-capitalist values.

Differently from these groups, the historic urban movements tend to pass the right to the city as right to housing. This is the case, for example, of the Union of Tenants (*Unione Inquilini*)[46], the Movement for the Housing Struggle (*Movimento de Lutta per la Casa*) the cooperative movement and, more recently, certain actors linked to the International Alliance of Inhabitants[47].

The theoretical reference most used in Italy regarding commons is Ugo Mattei's work "The commons: a manifesto"[48] (2011). The author founded the University of Common Goods (2004) and was the academic coordinator at the International University College of Turin. This publication is a result of the collective work done along with Alberto Lucarelli and Livio Pepino in the framework of the social mobilizations against of water privatization that took place in 2011, culminating in two national referendums against the Berlusconi government policy.

Synthetically, the Italian understanding of the commos is based on the following ideas:

1. **Critics to the classic social justice conception:** in Europe, the predominant concept of social justice conceives the State as its own provider through the distribution of rights and opportunities. However, this very State has its redistributive capacity limited because of a predominant market-oriented logic that drastically reduces the possibilities of public intervention during a context of financial crisis. Considering this, defenders of commons state that these commons contribute to redistribute the wealth and empower the people, once more, putting redistributive justice as the central objective of the social organization within a balanced management of the commons (Mattei, 2012: 38).

2. **Critics to the historical process of commodification of certain goods.** Commons that are not unlimited (such as natural resources), but the system considers them infinite to exploit them, ignoring the negative consequences in terms of sustainability; and commons that are unlimited (their use and enjoyment do not deplete them), but are artificially conceived as rare to justify their commodification (like the ones resulting from creativity and intellectual capacity)[49].

3. **Concern with the principle of community and with the sustainability.** One of the commons' central elements is their capacity to create ties and social relations, forming local communities of collective practices and enjoyment. Along with them, there is also, in an important way, the "wide community" (Lucarelli, 2011), understood as humanity as a whole and its future generations. With this idea, the struggle for common goods is within the agenda for sustainability.

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44   See www.comunivirtuosi.org/

45   See http://universitadelbenecomune.org.

46   See www.unioneinquilini.it/

47   See http://www.habitants.org. The IAI was created in 2003 as a network of associations of inhabitants and territorial social movements, composed by tenants, owners, homeless people, residents of settlements and co-ops, indigenous people and slum worldwide. The organization's Charter of Founding Principles emphasises the importance of strengthening the voice of those with no voice at the level local as a strategic instrument to build and strengthen the solidarity ties necessary to protect "the right of inhabitants to be builders and users of the city".

48   [Translator's Note] The original title is "*Beni Comuni, un manifesto*".

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49   For more details on this issue, see Carlsson, 2008.

4. **Valorisation of the role of women.** The feminist thinking has contributed to reveal the historic role played by women in the commons defence since "being historically and nowadays, primary subject of the reproductive work, (...) they have depended on the access to common natural resources more than men, have been more penalized by their privatization and have been more committed to their defence" (Federici, 2012: p. 46). This view also criticises the invisibilization of the reproductive work and the negative effects brought by its privatization from a psychological and emotional point of view. Thus, this intellectual tradition defends the creation of a new common: the collectivization of the reproductive work.

5. **Rejection to the private management of common goods.** The State has stopped representing the general interest in order to merge with the interests of the financial and economic oligarchy (Mattei, 2012: 39)50. Hence, the private management of commons is highly problematic compared to the defended new model of participatory public management (Lucarelli, 2011: 146) that allows local experimentation, appropriation of the commons by their beneficiaries and the emergence of a sense of community (Bollier and Helfrich, 2012: xviii).

6. **Philo-institutional character of the struggle.** IIt is an Italian peculiarity the will to dialogue with governmental institutions in order to influence the development of new legal and political bodies that facilitate the local practices of commons. This happens because of both the profile of this struggle's inspiring figures and the support shown by several progressive local governments articulated in the network "Comunes for the Commons" (Comuni per i beni comuni)51. Beyond the interest on the municipal level and the convincing that it plays a fundamental role in the sustainability of local practices, the movement conceives commons as a fundamental right that should be guaranteed in the entire Italian territory for the sake of the equality principle. Hence, the insistence on the need of developing public national policies concerning this matter (Lucarelli, 2011: 41)52. Besides the national level, there is also the will to politically influence the European level, along with defenders of commons from other countries. This was put in action during the 2012 campaign to create an "European Charter of Commons"[53].

From theory to practice: the struggle for water and the paradigmatic case of Naples

In Italy, the struggle for commons has been centred specially on the water issue. This process, starred by the "Italian Forum of Movements for Water" (Forum italiano dei movimenti per l'acqua), began on the regional level, demanding the de-privatization of the Puglia aqueduct (2009-2010). After a while, the pressure was articulated on the national level to fight the Italian State recentralization process[54] that put in danger the capacity of

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50 Omstrom (1990) calls it the "profane alliance". Bollier and Helfrich (2012: xiv) point that "the system is a more or less closed oligopoly of elite insiders. The political and personal connections between the largest corporations and the government are so extensive they amount to collusion. Transparency is minimal, regulation is corrupted by industry interests, accountability is a politically manipulated show, and the self-determination of the citizenry is mostly confined to choosing between Tweedledum and Tweedledee [almost identical fiction characters created by Lewis Carroll] during the election period".

51 See www.globalproject.info/it/tags/comuniperibenicomuni/community.

52 Bollier and Helfrich (2012) have called this phenomenon "the tragedy of the anti-common goods" in response to Hardin's theorizing (1968). To these authors, an excessive fragmentation prevents innovation and cooperation.

53 This proposal was discussed on February 11, 2012 in the Valle of Rome Theatre, with representatives of the common goods movement from Spain, Bulgaria, Poland, the United Kingdom and Germany. According to the Article 11.4 of the Treaty of Lisbon (in force since 2009), which recognizes the European Citizens' Initiative, it is possible to submit proposals to the European Commission through transnational committees that have the support of one million collected signatures in several countries of the European Union. See also the Regulation (EU) 211/2011, from February 16, 2011.

54 Through Article 23b of Ronchi Decree 133/2008.

local and regional authorities to manage their water services in a public way. The discussion ended in 2011 with the celebration of two referendums (on June 12 and 13, 2011), in which the 27 million Italians who voted chose to maintain the public management of the water. The Berlusconi government responded with a political manoeuvre: the approval of a decree creating a legal loophole to dodge the popular decision[55]. Several sectors of the Italian civil society responded by invoking the unconstitutionality of the decree and managed to bend the government[56].

Despite these partial victories, we need to underline that some of the most innovative ideas elaboratedby Lucarelli and Mattei, among others, at the heart of several technical working sessions and legal committees, were not formally approved as part the new regulatory framework, not even on the local level (ideas like the recognition of a minimal vital amount of water in the proposed de-privatisation of the Puglia aqueduct). The commons notion did not get to be inserted in the Civil Code reform boosted by the government of Prodi in 2007[57], as a consequence of the celebration of the early 2008 elections and the subsequent victory of Berlusconi.

Yet, the struggle for commons did not end there, since it has been voiced through other kinds of experiences, such as the communal uses of the extra-urban land, the promotion of free softwares and Creative Commons licences[58], the defence of free exchange of seeds and public campaigns against the low price when selling radio and television frequencies or against the liberalization of coastal concessions. It should be noted as well that the discussion on commons has converged with other national movements, like Slow Food[59], the networks for urban orchards, cooperative consumption or solidary economy, the network "Democracy Zero Km" (*Democrazia km0*)[60] or the discussion on "new ownership ways"[61], which is inspired by the so-called "civic uses"[62].

Some cities have emerged as true catalysts in this set of experiences. Among them, a very interesting one is the metropolis of Naples, the third biggest city in Italy. Afterthe 2011 municipal elections, its city council was the first to create a Council of Commons and Participatory Democracy, and the person politically responsible for this was precisely one of the architects of the popular movement against water privatization: jurist Alberto Lucarelli. This department articulated the city political action on territory management, public services and participatory democracy, essential issues for the right to the city. The "Naples Laboratory" (Laboratorio Napoli)[63], was the main conductor in this discussion process, centred on six macro-areas, corresponding to the realization of a popular consultation: (1) Commons, territory, urban planning, housing policy, affordable and popular housing, the role and services of the public administration, mobility and infrastructure; (2) Participatory budgeting; (3) Right to education, right to sport, youth policies and equalitarian opportunities; (4) Labour and development, promotion of peace, international cooperation, resources removed from the mafias domain, and transparency; (5) Environment, solid wastes and health protection; and (6) Social policy, immigration, culture, forum for cultures, tourism and entertainment, mega-events. Among these areas, the one

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55 Law Decree 138 from August 13, 2011.

56 Eight thousand signatures were collected (www.siacquapubblica.it); an appeal to the Parliament and to governors from some regions was launched and an open letter to the President of the Republic was written. These measures had the support of renowned jurists and local administrators, including a strike by a mayor.

57 Particularly, the proposal for reform of the Book II of Title III, developed by the "Rodotà Commission".

58 The Italian movement of the defence of common goods took part in the struggles against the approval of ACTA, the treaty on intellectual property, in Europe.

59 Defined as the consumption of agricultural food from 0 km away or nearby locations.

60 This network was born in 2009 with the aim to promote the defence of the common goods, the participatory management or solidary economy, among others. For more information, v. www.democraziakmzero.org.

61 For more information, v. National Consultation on Common Property: http://consultanazionale.blogspot.com.es/.

62 To more information on the civic uses, v. Chapter 8 Section "Historical Forms of Communal Property".

presenting greater convergence with the right to the city is the first one. However, the term does not often explicitly appear in documents and calls from this working group.

The work of the department also relies on the recommendations made by the "Citizen Observatory of Commons" (created in 2013) whose duties are to study, analyse and make proposals for monitoring the protection and management of common goods. Eleven people – individuals with recognized experience in legal, economic, social and environmental areas – compose this body. The mayor appoints all except four of them, who are selected by the population in an electronic consultation.

The most noticeable concrete measure aimed at protecting the commons in Naples was the transformation of the public company for water management ARIN SPA (Azienda Servizi Idrici Napoletani) in a "Special Company Water Common Resource of Naples" (Azienda Speciale Acqua Bene Comune Napoli - *ABC*)[64], ruled by another philosophy, as its Statute shows[65]. It establishes one of the most advanced models of local public management in the country. Firstly, the preamble explicitly mentions the public responsibility for defending the commons bears on all Neapolitans and the "entire humanity, in the present and the future", and they should be kept apart from the commercial logic because they belong to all and therefore should be managed based on "ecological and social" criteria. Secondly, the ABC Statute establishes some governance measures, like the appointment of two civil society representatives in the Administrative Council (Art. 7), the intervention of the Municipal Council in some important decision-making processes, the creation of a Participatory Ecological Program-Plan (Art. 32) and the creation of a pluriannual participatory ecological budgeting (Art. 33). Generally, the relations between company and population are defined by the recognition that the popular power can permanently observe and modify the business management

acts , as well as "promote every possible way of consultative, proactive and controlling participation" (Art. 41). It is also noteworthy the permanent supply of training aimed at the overall population and workers, as well as the use of simple and direct language and the creation of an International Solidarity Fund (Art. 28). The transformative potential of these measures in a corporation that supplies water to over 1,650,000 people in the provinces of Naples, Avellino, Benevento and Caserta and that, moreover, has Ugo Mattei as President, can be significant. Nevertheless, despite the provisions in the ABC Statute, it is still difficult to determine whether there is an actual rupture in the previous management model. Surely, the fact that the Neapolitan Executive branch has weakened in the last two years[66] has generated some more innovative proposals in its programme (particularly concerning the participatory aspect) to be put in check.

It is also worth mentioning the measures directed at recovering large socially unproductive or abandoned public and private spaces and their transformation into "spaces of well-being" (Munarin and Tosi, 2010) for the community. In this regard, since 2011, some instruments have been created to support popular initiatives of public space occupation, self-restoration and collective management, like the former Filangieri nursing home in the Old Town, the agricultural areas from Saint Laise to Bagnoli and the former Convento delle Teresiane to Materdei (Mattiucci and Nicchia, 2014). The first experience conducted by the municipal government was the conversion the former Filangieri nursing home, a municipal property, into a self-managed cultural space[67]. TThe building was occupied by a group of artists and individuals linked to the entertainment sector. The local administration, waiting to decide

64   See www.arin.na.it

65   Approved in September 2011. Available at: www.arin.na.it/allegato/allegato_1191_Statuto%20ABC%20Napoli.pdf.

66   Mainly because of the disappearance of the party "Italia of Values" (*Italia dei Valori*), that composed part the council of De Magistris, as well as the high number of political changes to the councils. In fact, Lucarelli has not been Councillor of Common Commons and Participatory Democracy since 2013 and various members of the Citizen Observatory of Common Goods have resigned, openly criticizing Mayor De Magistris by for a management too base on his personality. V. for example www.eddyburg.it/2014/04/perche-lascio-losservatorio-di-de.html.

67   See deliberation No. 400of the Municipal Council, on May 25, 2012.

on the property's fate, negotiated with them a memorandum for the provisional management of the place, establishing a discipline of use that included a rotation of activities organized by various popular segments (associations, thematic groups, foundations) that proposed a non-profitable cultural program. The activities calendar, designed in a participatory way, should be further validated by the councillor in charge.

In order to expand this kind of experience to other buildings and spaces in the city, the municipality passed the "Regulation for enjoying the commons owned by the Naples Comune" (*Regolamento per l'assegnazione in godimento dei beni immobili di proprietà del Comune di Napoli*)[68]. Once more, it seems the process has been "trapped in a state of mere intentions" (Mattiucci and Nicchia, 2014: 12). In a context of economic crisis and austerity policies that reduced the financial transfers to local governments, the city council has seen the sale of estates of municipal property as a possible solution to liquidity problems[69]. Therefore, the Neapolitan municipal policy has found itself immersed in strong internal contradictions between protecting public property as a common and its privatization as a source of revenue.

This duality has also manifested itself during the issue of distributing social housing to most vulnerable groups, which has long suffered from some irregularities, like previous administrations adjudicating residences without the requirements established by the regulations in force. Naples policy in this regard has alternated between zero tolerance and amnesty (La Nottata, 2013). This progressive estrangement from the initial political promises has not escaped the alternative media (which had been more lenient with the municipal government) and has generated a profound discontentment among the Neapolitan people and the social movements. The

response has manifested itself in numerous ways: from pushing for the participatory processes that had been promised[70] to occupying public spaces as a form of expressing "(and satisfying) civil society's welfare demand, which, meanwhile, has become more urgent" (Mattiucci and Nicchia, 2014: 8). These actions are produced in different buildings and spaces in the city (even old commercial places, industrial plants or unused open spaces) that are being transformed into homes, kindergartens, urban gardens, places for the production and presentation of artistic events or spaces for sport, culture and coexistence, out of the market-oriented logic. In practice, these experiences of reappropriation emanating from spontaneous processes of popular participation and self-organization constitute real propositions for urban renewal that, as a whole, conform a true "bottom up" policy supplying the lack of municipal action in abandoned or underutilized spaces.

Occupations are not a new phenomenon neither in Naples nor in any other big Italian city. In the national genealogies outlined by Maggio (1998) and Mudu (2013), two occupation waves are identified. The second one originated, in the 90s, the so-called "Self-Managed Occupied Social Centres")[71], which demanded a more visible role in the city dynamic by using spaces to experiment models of alternative sociability. The urban vision brought by CSOA is partly inherited by most recent occupations. Nevertheless, there is a great difference separating one and the other: current occupations do not tend to imagine space management being exercised in a complete autonomy from the institutions. Hence their "will to directly dialogue with the municipal administration" (Mattiucci and Nicchia, 2014: 16). In this context, the occupying groups formally negotiate with the local government the recognition and legitimation of their common's self-management practices and the possibility of using public facilities to reduce expenses.

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68 "Unanimously approved in the Municipal Council deliberation No. 6 of February 28, 2013. For more information about of the buildings and spaces public affected by this decision, see www.youtube.com/watch?v=yYJdhPuQTd4.

69 See the "Long term plan to restore financial balance". It should be mentioned that a great amount of public auctions have been deserted due to the Neapolitan private sector's weak financial position.

70 Among others, the review of "Regulation for the use of urban parks", Ord. Sind. 248 and 276 of January 10, 1997 and of April 30, 2003. See the petitions from the Ventaglieri Park Social Coordination in www.parcosocialeventaglieri.it/pagine/storia/regolamento.htm.

71 One of the highlights was the CSOA Office 99.

Therefore, these actors emerge as "providence society" (Santos, 1995) before a State more and more dysfunctional in its role of public services provider and guarantor of distributive justice and social inclusion. These social dynamics show that the situation described in the Report on the social situation in the country (CENSIS, 2007), which concluded there was a retrogression of the civic awareness and a disarticulation of society, has been overcome over time (De Rita, 2007: 2)[72].

The radiography the Neapolitan case can be completed with some initiatives concerning political incidence on the European level, the solidary economy or the guarantee of fundamental rights. On first issue, the municipal government has explicitly positioned in favour of approving the European Charter of Commons. Regarding the solidary economy, another experiment driven by the municipal government is the release, in 2012, of a local currency, the Napo, in order to promote local trade development in some areas considered socially vulnerable[73]. Through this initiative, families interested in participating can receive 100 Napos (which would amount to 100 euros) that get them 10% saving in the participant establishments. Until now, the city has not publicized figures on the social impact of this local currency.

Finally, in 2013, the municipal government approved a resolution aimed at providing all citizens with a basic level of benefits regarding civil, economic and social rights, according to the economic parameters established by the European Union on minimum levels of essential service[74]. It provides the possibility of "derogating the Pact for Internal Stability". The regulation is based on several articles of the Italian Constitution[75] and clearly states the will of the local political majority to challenge the legal framework in force claiming the principle of subsidiarity and the obligation to guarantee citizen's fundamental rights.

In conclusion, it should be noted, at last, that the case of Naples, with all its contradictions and coherence limits between statements and actions, gives visibility to an innovative perspective, consisting in valuing the common goods, that has inspired other Italian local governments, as we will see next.

Other interesting experiences: occupations, mega-events critiques and municipal alliances

In this section, we will mention some additional experiences that are connected with the most common struggles for the right to the city. Accordingly, we will refer to urban space reappropriation practices, to critiques to the hegemonic urban development model based on building large infrastructure facilities, and to the strengthening of local governments as stakeholders that can contribute to transform the right to the city in a reality in their territories.

Regarding the first issue (occupations), the Italian context presents some examples that are worth mentioning. All of them clearly state the resignification of social centres through the occupation of abandoned areas (usually old factories) and their reuse with social purposes. These practices have their historical origin in the late 70s, a context of deindustrialization in Italy, expressing the predominance of the space's value of use over its economic value. The occupations have derived into self-managed territories where bars, restaurants, gyms, kindergartens, training colleges, workshops for cultural and artistic creativity, and even self-managed companies – like the "Garage Zero" case (Officine Zero) in Rome – were put into operation.

While most occupations in the 90s ended in forced evictions because of a stronger pressure from the real estate market[76], current occupations have the advantage of the

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72   According to this report, Italian society was shaped like a "bat" and characterized by the fact of that "the components are put together by being placed beside each other and not because they are integrated".

73   V. www.napo.comune.napoli.it/info.

74   Municipal Deliberation of January 22, 2013, on the principle of adequacy of the essential services (the last one adopted before Lucarelli leaving the municipal government).

75   Art. 2, 3, 5, 117, 119 and 120 of the Italian Constitution.

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76   Since the 1990s, with the increase of values in the real estate market, the recovery of abandoned industrial parks for speculative purposes turned into a

economic crisis, which has stalled the sector and caused the closure and abandonment of some commercial places. If we add the fact that there currently is a bigger demand for low cost socialization opportunities, the resulting panorama situates these new actors in a more favourable position when compared to their predecessors. In this regard, institutions are sometimes forced to recognize the social value of the practices and initiatives arising from occupations and to recognize these groups in tables of negotiation or participatory processes.

One of the most interesting experiences, is the "Municipality of Common" (*Municipio dei Beni Comuni*) in Pisa, which was well documented in the book "Rebelpainting – Social space and common goods: a collective creation" (*Rebelpainting. Spazi sociale e beni comuni: an creazione colettiva*, 2012)[77]. Its origin dates back to "Project Rebellion" (*Progetto Rebeldia*): iin its framework, an informal network of nearly 30 groups and associations linked to cultural, social, sports, environmental, ecological and pro-migrants rights scenes, has performed several occupations in abandoned spaces since 2003 (places owned by the ASNU company of urban cleaning or in Etruria, District 42 and Colorificio Toscano old warehouses). These groups managed to sign collaboration agreements with the city university and the government to organize their activities, but the real estate lobby and speculative eagerness caused its transfer from one space to another and even got the university and municipal institutions to revise or contravene these memorandums of understanding. The case gained national relevance by collecting signatures of intellectuals from all over the country against some of these evictions. In the communications issued by this platform to protest the forced evictions, the term "right to the city" is frequently used and

there are references to "fraternal" struggles, like the ones that took place in Gezi Park in Istanbul[78].

Similar experiences happened in other Italian cities. In Rome, we highlight the "Occupied Valley Theatre" experience (Teatro Valle Occupato)[79], initiated in 2011 by artists, neighbours and intermittent workers from the cultural sector. In 2014, these groups signed an agreement with the national government and the city of Rome. In 2013, in the Saint Lorenzo neighbourhood, also in Rome, the opening of the New Cinema Palace (*Nuovo Cinema Palazzo*)[80] was obtained, and the Palace is currently working under self-management regime, while others spaces are negotiating the regularization of their functioning through of the call "Deliberation 36", created in the 80s. In Milan, it is worth mentioning Macao - New Centre for Arts, Culture and Research (*Nuovo Center per le Arti, la Cultura e la Ricerca),* created in 2012[81].

In all these cases, there is an underlying tendency to rethink cities as spaces where it is possible to rebuild social and environmental relations that were broken. From this point of view, the emphasis on the struggle for urban commons can be interpreted as Italy's admission in the collective rights debate proposed by the right to the city. Furthermore, the occupying practice challenges the classical concept of private property through forms of communal property or "other forms of ownership". This expression references the title of a work published in 1977 by Paolo Grossi, a specialist in medieval law, whose work has been recently revisited by Italian scholars from the Society of Territorialists due to his analysis on "civic uses", legal forms of communal property from medieval origin[82]. The explicit recovery of Grossi's thinking is revealed in countless events recently promoted in several of these occupied spaces,

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great business. Local governments were strongly pushed to gradually evict the occupied spaces. This phenomenon prompted a long series of resistance forms (Mudu, 2013) and articulations of very heterogeneous coalitions that gathered groups of occupants, neighbours, students, workers and individuals linked to the intellectual or artistic scene (particularly in the cities of Turin, Milan, Genoa, Padua, Venice, Rome and Naples).

77   See www.inventati.org/rebeldia/spazi-sociali/libro-rebelpainting-2.html.

78   This experience is analysed on Chapter 6.

79   See www.teatrovalleoccupato.it.

80   See www.nuovocinemapalazzo.it.

81   See www.macaomilano.org.

82   For more information on the civic uses, v. Chapter 8, section "Historical Forms of communal property";

frequently in collaboration with groups of academic thinking or academic research projects[83]. TThese reflections seek to fundamentthe commons category from a legal point of view and explore the legal possibilities for its enjoyment by the collective. With this goal, in 2013, it was organized in Rome the cycle of seminars "From the practices of the 'common' to the right to the city", held in the New Cinema Palazzo[84]; the debate "Disrupt property?" or events week "Spatial Struggles", that took place in the Valley Theatre. Other initiatives that have sprung in this space are the video "Occupying the Commons", which sets a dialogue between the battles against the process of commons enclosing and the Occupy Movement experiences[85]; and the first Legal Commission for Recognizing the Commons (named Fatti Bene) that tries to "translate practices, struggles and stories into the law language" in order to develop a text to be submitted to the National Parliament. We should also mention the participation of Stefano Rodotà in these activities, a prominent Italian jurist who, in those months, was one of the most considered candidates for the Presidency of the Republic.

Regarding urban development and the construction of great infrastructure facilities, there have been contradictory urges. In some regions, such as Tuscany, Puglia, Umbria, Lazio and Emilia Romagna, channels of innovative democratic participation it has been recently created [86], meanwhile, in other regions, some decisions motivated the emergence of movements contrary to certain works, like the extension of

the American military base of Vicenza (No dal Molin), the high-speed train in Val di Susa and other regions (No Tav) and moving the protection barriers in the Venice lagoon (No Mose). The gradual articulation of these movements over time has created partnerships with some local powers, as well as enabled the development of alternative proposals and background debates on urban development models.

Nowadays, an important element of convergence for radical social struggles seems to be the World Exposition mega-event that will take place in Milan in 2015. According to the governmental narrative (which partially includes several local and regional authorities), the event is a positive opportunity for the city and the country brands, since the theme selected for the event (linked to sustainability and food) is an opportunity to experiment with new models of territorial organization. This position overestimates (in win-win optics) the alleged supply of work opportunities directly related to urbanization works and the tourism dimension of the event.

Since 2007, the social critic to the Expo's development-oriented model is fundamentally connected to a group of alter-globalists intellectuals and activists linked to the occupied social centres from Milan and from the province, gathered in the "No Expo" Committee. However, with the beginning of the construction works for the major infrastructures (highways, navigable channels or airports) that will connect the event's places and the nearby cities, a wider front of groups contrary to these territorial transformations and, above all, contrary to the underlying speculative dynamic began to conform (in this regard, the No-Tem Committees, the No-Pedementana or the Committee via Gaggio, contrary to the airport expansion of Milan Malpensa, are noteworthy).

This heterogeneous front has networked with movements from other places in Italy that share a similar analysis on the limits of the neoliberal development forms behind the mega-events. They criticize the "accumulation by dispossession" (Harvey, 2004: 63) and explicitly allude to the right to the city. From this point of view, the Expo2015 mega-event can be considered an important catalyst of convergences between movements and discourses that resort to the right to the city and that connect other parallel struggles developing in the country

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83   Such as the project of the University of Perugia, "The legal system of the common goods", funded by the Perugia Saving Banks Foundation (*Fondazione Cassa di Risparmio)* and coordinated by Professor Maria Rosaria Marella. V. www.comunemente.unipg.it.

84   With the support of the Swiss Institute.

85   See www.youtube.com/watch?v=aAi4wwirTYU.

86   The Tuscany case is noteworthy, for example, in which the Regional Law 46/2013 that amends the Participation Law 69/2007 obliges to organize "public debate" processes for infrastructure works that exceed 50 million euros. This law also establishes that the participation in elaborating public policies, plans and projects is a fundamental right of the population. See www.regione.toscana.it/-/legge-sulla-partecipazione and http://www.consiglio.regione.toscana.it/oi/default.aspx?idc=47.

in order to rethink a different territorial development model and territory management forms that are more democratic.

Vis-à-vis these positive elements, it should be taken into account that yes, on one hand, this coalition has held, until now, the capacity to establish connections on a larger scale and to deepen the relation between rights and territory. But, on the other, it has not shown yet capacity to build strong relations with more extensive sectors of society, therefore the critiques to the Expo have remained fundamentally superficial and limited to the dispute over the waste of public money and corruption. Nowadays, we can say the protagonists from the anti-Expo movement are mostly intellectuals, architects and urban planners linked to the P2P Urbanism perspectives[87] and groups linked to the artistic and creative production sector, very important in Milan's economy and one of the elements that built the city's identity. This sector collectively considers that the Expo provides a narrative that opposes and denies the system of meanings they have contributed to produce in the last decades. Citizens directly affected by Expo-related transformations (like the ones required to change from one city to another due to the rise in land values or the ones that have been deprived from common resources and areas) have also joined the coalition. Still, this protest coalition has other kinds of actors.

The Milanese case allows us to build an interpretative hypothesis regarding the Lefebvrian formulation of the right to the city as "a shout and a demand" (Lefebvre, 1996: 158) that conjugates the demands of those denied from their basic rights with the aspiration for change from those who perceive the urban space as a mechanism that limits growth capacity and creativity . In the Italian case, the coalition between these two categories seems to be still very fragile.

Finally, we refer to the municipalist dimension of the struggle for the right to the city, which has been characterized by the alliance between part of Italy's local governments and the movements defending the commons. Besides the paradigmatic case of Naples, recent contributions from other municipalities are interesting, like Bologna. Its city council promoted the elaboration of the "Regulation on the collaboration betweencitizens and the administration for the caring and the renewal of urban commons"[88], drafted to be transformed in an instrument of national use by other municipalities. The initiative seeks to translate some constitutional principles regarding commons into regulations of administrative law and the valorisation of urban social function. The document contains ideas concerning the struggle for the use value of abandoned public spaces, social reappropriation, return of the commons and the collective property to the population. It is noteworthy that references to the right to the city, Lefebvre and Harvey were frequent in the preparatory works for this document, although they do not explicitly appear in the final text.

On the other hand, several efforts were conducted to articulate a network that would coordinate local governments and social movements in order to transform the public services management (Naples and Venice have participated in that, for example). However, these initiatives have not gained much visibility, especially after the unexpected election results of the Five Stars Movement (M5S), led by actor Beppe Grillo, and the failure of the "Ingroia List", which had succeeded in gathering several left-wing political forces and social movements' representatives. Today, M5S (with almost 30% of the votes in the February 2013 Parliament elections and strong popular support) has partially monopolized the media attention and the national debate around the renewal of the Italian political class,

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87   The "P2P Urbanism" movement defends that the inhabitants can design and build up their own environments, using techniques and news freely shared on the internet. Therefore, this movement (more interested in the planning process than in its products' visual impact) converges with the Free Software movements in the sense that it defends the need of continuous adaptation of the original matrix documents (using the users' online comments and proposals) and of permanent contact between construction companies and material producers and their users. This movement advocates for the centrality of the community (and especially of the vulnerable groups) as framework for learning and emphasizes the human dimension the city (sustainability, pedestrianization), which should be achieved through a "profound sociocultural process" in order to avoid an authoritarian and futureless urbanism (Salingaros and Mena Quintero, 2012: 433).

88   See www.labsus.org/scarica-regolamento.

suffocating the voice of other local and national claims. This speech, centred on criticizing the representative politics and its lack of transparency, has silenced other themes concerning local development, territorial issues or the importance of participatory democracy on the local level[89].

However, after the 2013 summer municipal elections, some political forces originated in popular movements have taken back the defence of the commons. This is the case of the Sicilian city of Messina, where a coalition of left wing parties and citizen lists composed by members of social movements have created the Council of Commons. Daniele Ialacqua is at this department's frontline, coming from a network of civil society organizations. In early 2014, the municipal council decided to create the "Messina Laboratory for Commons and Participatory Institutions" (*Laboratorio Messina per i beni comuni e le istituzioni partecipate*)[90],inspired by and continuing the works developed by the city of Naples. Its objective is to identify and map the city's public resources (estates and agricultural areas) that can be reused in a collective way by adapting the local regulation for civic uses[91].

Given the complexity of the issue, the Messina Laboratory organized, in April 2014, a national meeting on "Managing commons. Constituent practices for a new right" (Amministrare i beni comuni. Pratiche costituenti per un nuovo diritto), that sought delving the debate with municipalities (and their social movements) sensitive to the theme. The meeting had the participation of distinguished lawyers and intellectuals[92] and was concluded with the signature of a memorandum of understanding on "the regulation of commons, municipal transparency, defence of the environment and the built heritage, and expansion of forms popular participation in the municipal administrative decisions". The document has been signed by the Italian cities of Bologna, Cagliari, Genoa, Messina, Milan, Naples, Palermo, Parma, Rome, Venice, and by the Croatian city of Dubrovnik as well.

Despite the philo-institutional character of some of the experiences and initiatives analysed here, some urban movements criticize the way in which the institutional recognition of the struggle for commons has developed. Among them, we highlight the International Alliance of Inhabitants, which recognizes that Italy has developed a relaunching "of international debates concerning the right to the city, although it did not result in an increased protection of the right to housing or a strong opposition against evictions".

However, if the cities mentioned in this chapter follow the innovative content of the programmatic documents they have approved on commons, the convergence between progressive local institutions and the social sector could give way to a new "Urban Social Pact" based on the social and anti-speculative use of the commons, the support to self-management and participatory democracy practices. We could even imagine a greater synergy with other kinds of movements (such as Terra Madre and Slow Food) that fight for food sovereignty and the need for a new country-city balance. This is direction taken, in fact, by the international debate on the right to the city, as a result of the increasing approximation and dialogue between coalitions of urban social movements (HIC, AIH, etc.) and peasants' platforms (Via Campesina)[93].

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89   For a detailed critics to the M5S, v. the texts produced by the writers collective Wu Ming at www.wumingfoundation.com/giap.

90   Deliberation of the municipal council of January 30, 2014.

91   For more information about the civic uses, v. Chapter 8, section "Historical forms of communal property".

92   Like Ugo Mattei, Paolo Maddalena (Emeritus Vice President of the Constitutional Court) and Salvatore Settis (historian).

93   See for example the joint document these platforms adopted in the framework of the Tunis World Social Forum (2013).

The Right to the City in London[94]

> [Community Land Trusts are] considered private property when seen from the outside and common resource from an internal perspective (Carol M. Rose, 1998: 144).

Many popular struggles and a great part of the literature consider the centrality given to the private property system, which regulates the access to and the control of the urban space based on the capital, one of the most effective ways to deny the right to the city. The urban fabric division based on private property leads to a situation where land is mainly managed for generating profits. According to David Harvey (2008: 53), "We live in a world, after all, where the rights of private property and the profit rate trump all other notions of rights". Given the situation of widespread land speculation, the Lefebvrian ideal of collective participation in public space appropriation and production seems a distant possibility. The control over the city and how it is modelled lies on the hands of few. Yet, the idea of land and space being privatized seems unnatural:

> The first man who, having fenced in a piece of land, said "This is mine," and found people naïve enough to believe him, that man was the true founder of civil society. From how many crimes, wars, and murders, from how many horrors and misfortunes might not any one have saved mankind, by pulling up the stakes, or filling up the ditch, and crying to his fellows: Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody. (Rousseau, 2004 [1754]: 65)

Considering perspective, it is interesting that, in some European countries, the right to the city perspective is addressed through news ways of thinking land ownership. Among them, an interesting case is the Community Land Trusts (CLT), an alternative to land private property. These experiences are being promoted by a particularly strong and well-organized movement in the United States and Canada, although the United Kingdom (and in lesser extent some countries in Central Europe) also presented interesting examples. The CLT are generally formed by local residents and civil society representatives, created to guarantee democratic ownership and administration of local land and estate. Removing land from the market means it can be managed in the long term for the benefit of the local community instead of the benefit of external agents motivated by maximizing their own gains. In the privatization and neoliberal commodification framework, the CLT model implies rescuing the idea of collective land and housing rights. The model is not always recognized by national laws as a new property arrangement. In these cases, they are subsumed in the private property regime even if internally they develop innovative community relations in terms of cooperation and collective decision-making.

In this chapter, we will map the current housing crisis situation in the UK, we will describe the country's incipient CLT movement, to, later, carefully analyse the East London CLT example. By doing so, we will try to show how this kind of experience seeks to counteract some limits to the right to the city imposed by the urban development neoliberal logic.

The context: the housing crisis in the UK

The United Kingdom has a population of 64 million people in the four countries that compose it: England, Wales, Northern Ireland and Scotland[95]. Former colonialist power of great

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94   This chapter was elaborated with the inestimable collaboration of Owen Dowsett and Jez Hall. The text here presented is a partial adaptation of a case study prepared by him and subsequently reworked by the research coordinators with the objective to give it greater internal coherence to the overall narrative of the report. We have always tried to respect the core spirit, data and reflections of the collaborator.

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95   This country held a referendum on September 18, 2014 to decide whether they would become independent from the United Kingdom.

strategic importance, the United Kingdom is currently a close ally of the United States and one of the most "Eurosceptic" countries in the European Union. In economic terms, the United Kingdom is one of the main poles of the world banking system, remaining a great defender of the free market economy based on the unlimited growth myth.

Regarding the government model, the UK is a highly centralized country with very weak local governments (although these degrees can vary, like the case of the London metropolitan government) and a dominant national public sector that featured, in the last five years, cuts of great magnitude and disinvestments in many social welfare sectors[96]. The municipalities have very few competences to collect and spend funds, which significantly limits their capacity to provide services, despite constituting a legal responsibility. In the regions most dependent of the State's economic redistribution, financial cuts have induced a strongly asymmetric situation among territories. In this context, the United Kingdom continues to be a divided country, whose main fractures could be summarized as follows:

- **The North/South division.** The metropolitan region of London has significantly grown in the last 50 years, likely at the expense of the rest of the United Kingdom. Differences between North and South can be seen concerning income level, job opportunities, life expectancy or political influence, the latter expressed by the bigger weight of the Conservative Party (a majority in southern England while the Labour Party seems increasingly rooted in the north, especially in Scotland and Wales).

- **The gap between the rich and the poor.** A second gap refers to the growing distance in income and living conditions between the rich and the poor (OECD, 2011). Nowadays, most of the social welfare beneficiaries are work-

ers' families caught in a situation of low income and high housing costs. In a market economy where privatization is the predominant response, there seems to exist few solutions to inequality. The proliferation of Fairness Commissions, throughout the country, searching for ways to solve this issue on municipal level do not seem to produce great results, probably due to the absence of a platform that articulates local experiences and achieves greater political incidence, especially regarding income redistribution and the implementation of a more progressive system.

- **The housing cost.** A third fracture refers to housing costs, determined by a real estate bubble especially present in the southeast UK. Estate property has become a speculative investment , which makes it difficult to access the real estate market, particularly for younger buyers. Regarding rent, its price increase has created a "lost generation" of people over 30 that still live with their parents. Yet, almost 400,000 people (mostly young) still do not have their own home and spend their nights "couch surfing" among friends and acquaintances.

Regarding this last fracture and, more especially, the lack of social rent, the last incarnation of the issue dates back to the 1980s. By late 80s, local governments in the United Kingdom provided affordable housing to 6.6 million families (over a third of the population) and the availability of public property allowed the popular classes to rent a residence in downtown neighbourhoods of middle and low income. The social mix constituted an important goal of the territorial planning, especially during Labour administrations.

Nevertheless, under Margaret Thatcher's central conservative government, the Kingdom United starteda privatization strategy for its housing stock. The most recent consequences of this phenomenon can be seen in the map below:

Thus, between 1980 and 2009, a great share of the country's housing social stock was privatized. On local level, for example, 4.39 million public housings owned by municipalities were sold to private investors or demolished, raising suspicions regarding

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96   This tendency has been aggravated because of the 2008 crisis, which justified a severe austerity policy affecting many of the essential welfare state services.

the government's interest in valuating urban land for the speculative market. This process was accelerated through the so-called "right to buy" which invited tenants of public housings to purchase their own houses for a reduced price. Over 2 million public housings were sold this way since 1980.

The income obtained by local governments with these sales wasrarely been invested in new public housing associations, causing a severe decline in the amount of affordable housing in the United Kingdom. According to the English Housing Survey (United Kingdom Government, 2014), the number of homes under private rental regime in England in 2012-2013 (4 million) has, for the first time exceeded, the number of homes under social rental regime (3.7 million).

Thus, while the need for social (affordable) housing has not diminished, more and more families have remained subject to private owners in a rental market largely deregulated. In fact, a significant proportion of the homes bought under the "right to buy" have recently entered the private rental market (as happened in the Tower Hamlets London district, where 50% of the public housing sold through this mode has been privately leased). In addition, in areas where the housing demand exceeds the supply, the inflation produced by the private rental market can result in evictions of the neighbourhood's older residents, hence contributing to the progressive disintegration of local communities.

Some critics point out that the government is investing more resources in subsidies for low-income families so they can access the rental market (through housing benefits) than it would cost to directly provide more public housing. This situation benefits to private owners and contributes to stigmatize even more those people that require financial support. Even in cases where there is the possibility to rent public housing, local governments can collect up to 80% of the price in force in the local market, even if formally they do it in the framework of the "Affordable Rent" program. In many areas, these prices can be hardly considered "affordable". Policies like the controversial Bedroom Tax have penalized more severely those who rent public housing, as a result of the combination between an exponential growth in land prices and increasingly

limited public funds[97].
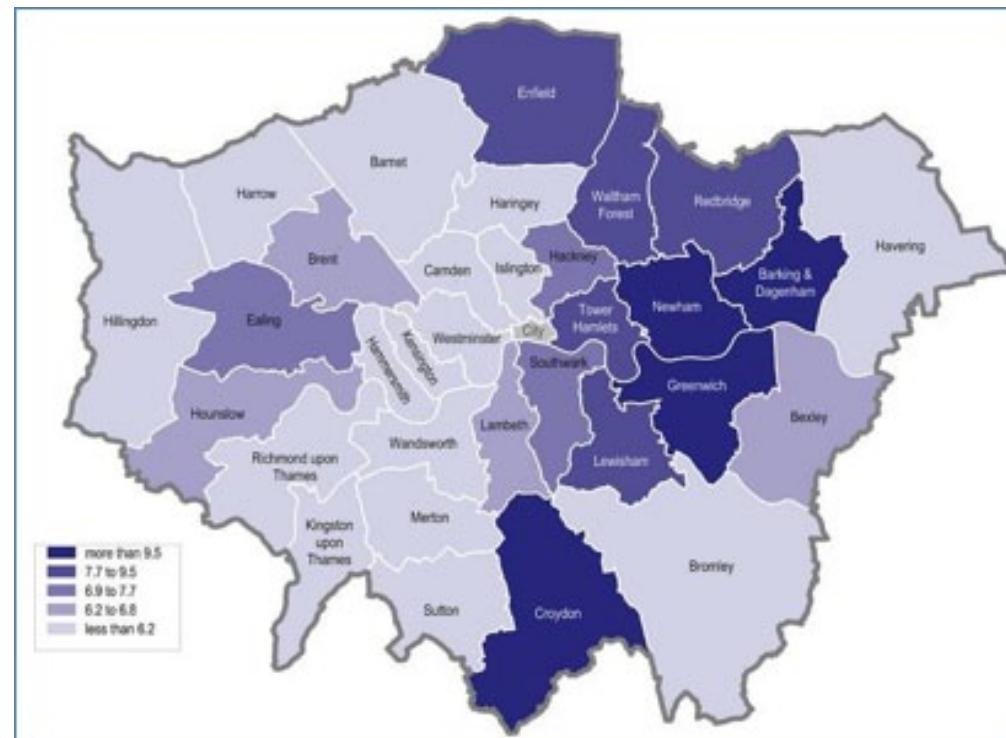
Image 1: This map shows the average foreclosure rate in 2010-2011 per 1,000 mortgage holders in several London districts. (Source: Trust for London and New Policy Institute).

Ultimately, the issue for many urban communities in the United Kingdom is that the free market does not provide enough housing to meet the wide set of the residents' needs. According to recent assessments, over 1.8 million families need social housing. The Institute for Public Policy Research estimates that the housing demand will exceed its supply in

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97   With the so-called "Bedroom tax", families living under social rental housing owned by institutions receive less aid if their properties have an empty room.

750,000 units by 2025[98]. TThe combination of low supply with rising prices can have all kinds of social impacts, from overcrowding homes to forced evictions and social instability. In a public statement[99], the Governor of the Bank of England stated that the rise in housing costs could represent one of the "major risks" for Great Britain's economic recovery due to a new mortgage "major over-indebtedness" of the families.

Community land trust and the London experience

In the context described, the possibility of the community sharing land, infrastructure and equipment property has progressively gained higher interest, even if it is not a new idea. In fact, back in 1650 the Digger Movement had imagined a radical way to equalize society by abandoning private property in order to favour land communal property[100]. These ideals can be also found in early socialism and in the cooperative movement. And, throughout the long 19th century, and, in less extent, the 20th century, the political and social reformists in the United Kingdom have set the foundations for establishing a model of collective property. Often, these measures were accompanied by private initiatives like the creation of planned communities by industrial reformers, like Titus Salt in Saltaire[101] or Bourneville[102].

It is worth mentioning the publication, in 1898, of "Garden Cities of To-morrow" (1965)[103], an influential work by Ebenezer Howard in which he develops his utopian idea of creating self-sustaining communities in land leased through a local trust as a strategy to avoid land speculation and suburbanization and to maintain local housing prices affordable to urban workers. Ultimately, it was a way of reverting the land profits on behalf of the community. Howard's work led to a practical experience of urban reform, with the construction, in 1903, of the Letchwork Garden City, outside London, and of several other settlements in the following years[104].

While Howard's "garden cities" had, in the end, a little bit of success in the United Kingdom, the idea of managing land for the benefit of the community was welcomed in other places. In India, for example, in the 1950s, Vinoba Bhave led the Gramdan "Village Gift" movement that got some rich owners to donate part of their land to community trusts. These lands were leased to people without land in order to use them as means of subsistence. Similarly, the American activists that fought for civil rights in 1960 sought to recover land for the African American population. Their efforts culminated in the establishment in 1969 of the first community land trust in the world. Nowadays, there are over 240 CLT in the US, articulated in an important network of exchange, cooperation and political incidence, the CLT National Network[105].

Regarding the United Kingdom, throughout the 1990s and 2000s, rural communities in Scotland developed community land foundations and trusts as a way to buy the islands and land in they resided in[106]. Since the landowners were often absent, many communities realised their possession titles were more and more unstable. With the Land Reform Act, adopted in 2003, the rights of communities to buy their land were formalized, a practice still active nowadays.

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98   Institute of Policy Research, 2011: "The good, the bad and the ugly: Housing demand 2025".

99   On May 18, 2014.

100   See http://bcw-project.org/church-and-state/sects-and-factions/diggers.

101   The history of Saltaire is available at www.saltairevillage.info/Saltaire_World_Heritage_Site_1028.html.

102   The Bourneville Village Trust dates back to 1900. See www.bvt.org.uk/. Bourneville was founded by the Cadbury family, Quaker chocolate producer.

103   Initially called "To-morrow: A Peaceful Path to Real Reform".

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104   Recently, the New Garden City Movement was created, under the impetus of the former City Garden Letchworth mayor, Philip Ross, and academic and activist Yves Cabannes (University College London, UCL). This experience, put in operation in 2014, puts the CLT in dialogue with the utopian vision of the garden city (Ross and Cabannes, 2013).

105   See http://cltnetwork.org/.

106   The examples include the purchase the North Assynt Estate in 1993, the Island of Eigg in 1997, and the Island of Gigha in 2002.

Learning from experiences in Scotland and elsewhere, a considerable number of scholars and housing and urban developers began to recognize the CLT's worth as a way of empowering communities. That led to the development of a national program to stimulate the CLTs (the National Community Land Trust Demonstration Programme), that executed a series of urban and rural pilot studies between 2006 and 2008[107]. Even though the CLT movement in the UK is recent, it has progressively gained force. In 2010, a network was created on national level, the National Community Land Trust Network, NCLTN[108], which combines all the CLT experiences existing in England and Wales. Nowadays, these amount to over 170 trusts (Howard, 2014), located mostly in rural areas, from Cornwall to the remote Lindisfarne Holy Island. The Network's mission is to make the CLT concept and practice known as well as to provide technical consultation and support for its implementation.

Although many CLT in the UK are under an initial land management phase and, therefore, its potential value is still unclear, there are some significant experiences, like the Coin Street Community Builders[109] or the East London CLT. London, currently capital of almost 8 million inhabitants, started to rapidly expand in the 18th century. The areas located in the northeast of the city became the most characteristic feature of the urban Great Britain and a microcosm of the structural tendencies that affect the country as a whole. East London[110]

is known for the growth of the manufacturing industry and the Spitalfields riots (1769)[111], and the projects of wharfs expansion in the 19th century to respond to the needs of the British Empire bourgeoisie. The migration wave to East London during the 18th and 19th centuries pressured the local housing provision and translated into wages cuts in the local industry. Therefore, while the dock and factories workers made possible for the investors to profit from the benefits of the expansion colonial, the neighbourhoods where they lived were filled with misery. According to the 1881 census, nearly a third of the one million people in that area was living in poverty. With the unstoppable dissemination of diseases, the life expectancy an East London worker was placed below 19 years. Subsequently, in the 20th century, the area suffered more: first, due to the significant damage caused by the bombing and, second, because of the industrial slope in the 1970s. The life and working conditions of East London inhabitants led many social reformists in the 19th the century to concentrate their efforts in this area.

Even nowadays, the image often associated to this region is one of overpopulation, crime and poverty, although in the last decades considerable efforts were made place to regenerate the area, like the construction of a business complex in the Canary Wharf. The area today holds the headquarters of many major world banks, organizations that provide professional services and media corporations. Down the river, the Royal Victoria dock has been replaced by the ExCel exposition and by a conference centre that, since its opening in 2000, has welcomed a wide range of high level events. The visitors can use the London City Airport, located some kilometres East, in a former port zone.

Recently, the East London renewal has continued to deepen when in 2005 London won the candidacy to host the 2012 Olympic Games[112]. At that moment, several projects for urban improvement and development began to be implemented,

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107 The initiative was led by Community Finance Solutions with the support of the Carnegie UK Trust and Tudor Trust.

108 See www.communitylandtrusts.org.uk/home.

109 This initiative are materialized in the implementation of a social business and a trust developer in 1984 with the aim of managing and developing an abandoned area of 13 acres in the southern area of London. The acquisition of this land by the local residents triggered the revitalization of a residential community in decline and a weak local economy. Twenty years later, the South Bank this is a centre of activities where housing cooperatives, shops, galleries, cafés, parks, sports equipment, spaces for events and a wide range of programs for community support have been developed. One of the requirements of this experience is that its members live in the area, which ensures the initiatives undertaken respond to local needs.

110 East London includes the districts of Barking and Dagenham, Hackney, Havering, Newham, Redbridge, Tower Hamlets and Waltham Forest.

111 When workers from the silk sector protested against the lack of taxation to the silk import. See www.british-history.ac.uk/report.aspx?compid=22161.

112 Officially, the districts of London proposed to welcome the event were Newham, Tower Hamlets, Hackney, Greenwich and Waltham Forest.

Canary Wharf   ExCel Centre   London City Airport
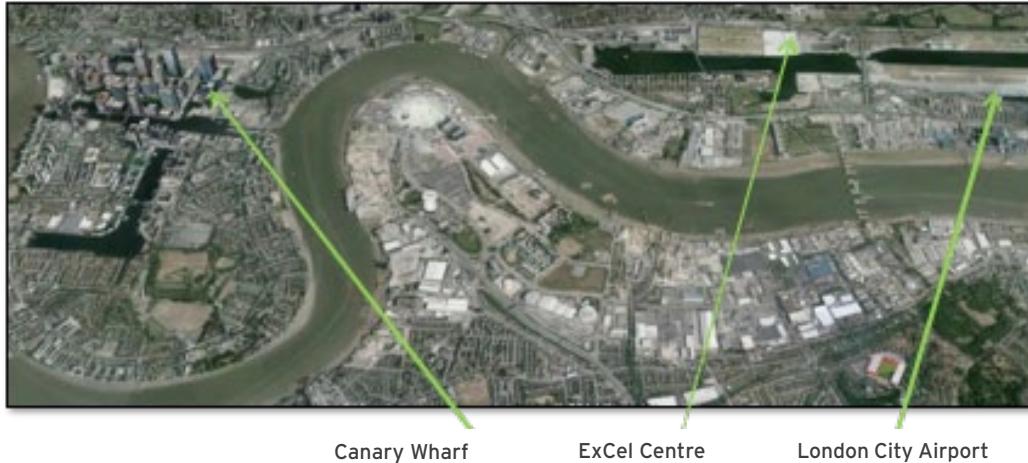
Image 2: satellite image in which can be seen the developments that took place in East London. (Source: Google Earth).

which, although brought benefits regarding transport and trade in some dormitory neighbourhoods (like Startford), were agreed with the inhabitants[113]. Furthermore, the construction works generated evictions (Hatcher, 2010)[114] and, subsequently, a series of mobilizations led by several neighbourhood associations, Occupy London activists, the Tenants Association, unions, scholars[115], which ended up fragmenting in terms of both composition and performance and barely used the right to the city banner (Hatcher, 2010; Kumar, 2012). The only references to the term were produced in the last mobilization

phase, that coincided with the publishing of the book "Rebel Cities" by David Harvey (2012) and the international campaign "Greenwash Gold 2012" against some of the Games sponsors like Dow Chemical (responsible for the 1984 Bhopal disaster) and Rio Tinto, among others[116].

In addition to the above-mentioned social mobilizations, the organization of the Olympic Games originated creative responses from the affected neighbours and neighbourhoods. The member of the East London Communities Organisation, TELCO, for example, felt the Games represented both a threat and an opportunity at the same time. For East London to benefit from the event and, simultaneously, not suffer an exponential rise in the land price, TELCO led an active struggle so the Olympic candidacy would include actions that result in greater sustainability for the community in the long term. The organization developed in 2004 a campaign for building affordable housing following Community Land Trust logic, beside the Queen Elizabeth Olympic Park in Stratford (Newham). This effort resulted in the establishment of the first UK urban trust in 2007[117]. The East London CLT still does not have all the rights to manage the Stratford Olympic Park heritage on the behalf of the community, but it was granted a license to implement a pilot project. The place destined for the construction is the St. Clements Hospital, located in Mile End, some kilometres from the Park. The plot is located in Tower Hamlets, known as the district with the highest demographic growth in England (Howard, 2014), where the average housing price has suffered the highest increase in the entire UK[118]. St. Clements Hospital, built in 1849 to welcome homeless and sick people, was used as a psychiatric hospital from 1950 until its closure in 2005. The property was transferred from the National Health Service to the Greater London Authority, before it was

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113   It should be mentioned that the Master Plan of these urban regeneration works was designed by the same company, AECOM Consultants, that is advising the city of Rio of Janeiro with the organization of the 2016 Olympics.

114   The first were the Clays Lane Housing Co-operative (See Kumar, 2012), right after the announcement of the Olympic conquest by London, closely followed the left-wing newspaper "Red Pepper".

115   Especially scholars linked to universities like the University College of London (see www.ucl.ac.uk) or to the London School of Economics (see www.lse.ac.uk/home.aspx).

116   In the organization of this campaign, Meredith Alexander had a very important role: she resigned from the Olympic Committee as a protest against some sponsors (Orsmby, 2012).

117   See www.eastlondonclt.co.uk.

118   The average housing cost in Tower Hamlets is placed above of 620,000 pounds. In the last year, the price has increased 43% (see www.rightmove.co.uk).

delivered in 2012 to the East London CLT and the developer, Galliford Try. The agreement signed with public authorities guarantees that at least part of the historical place will be used to permanently provide affordable housing. The communal property of urban land prevents the inflationary impact from free market prices and establishes the housing cost according to the income level of the local residents. Of the 252 housing units that will be constructed, 35% will be used for social rent and its price will be below 80% of the market's rental price; and 23 will be sold for affordable prices to the CLT members. For doing so, the sale price will be subordinated to the income level and not to the market value. The community participation in designing the pilot project wastranslated into demands to build a community centre and a coffee house. After 10 years of mobilization, the construction works have finally started in March 2014 and they are expected be finished in three to four years from now.

The development of this first urban trust experience has generated a great interest in the United Kingdom for possibly constituting a solution to the affordable housing issue, one of the greatest challenges in the country according to the CLT networks and the Citizens UK organization. In this context, civil society is promoting a manifesto for the 2015 general elections that claims for: half of all the affordable housing provision being built until 2030 in land acquired through CLT[119]; the government publishing an audit of all public owned land; and the terms of what constitute an affordable housing being redefined (since 2010, the law allows social housing developers to establish a housing cost of up to 80% of the market value).

In the institutional arena, the first person politically responsible to declare his will to multiply the CLTs has been the Tower Hamlets mayor who, in March 2014, led a group of 9 district mayors that brought to trial (even if unsuccessfully) the mayor of the Greater London Authority for adopting a measure that considerably reduced rental affordability.

Concluding Reflections

As an area historically affected by poverty and overcrowding and, recently, by evictions and gentrification processes, East London seems like an ideal place for experimenting new forms to guarantee collective rights, like the CLT. In a context where the right to the city is more and more threatened by urban models that prioritize maximum profit for developers and land owners, the Tower Hamlets pilot project could represent a legal precedent (especially relevant in the common law framework) for future experiences in other urban areas. Furthermore, considering the CLT provides an alternative to the land private property, favouring a collective management based on a "high-intensity democracy" model (Santos, 2006: 71-108), these experiences can constitute an important source of inspiration for other movements that fight against the hegemonic neoliberal globalization model, within and outside the United Kingdom. However, the CLT impact can be reduced if, at the same time, we do not achieve a redefinition for the normative framework in force recognizing the peculiarities of the collective ownership regime, which differs from private and public property.

In addition to the CLT, we should mention other movements and initiatives that seek to promote the collective and community paradigm. The Radical Routes network[120], for instance, gathers housing cooperatives from all over the country for mutual support and to promote new experiences. Within the struggles for a more egalitarian society, Radical Routes cooperatives are more than housing units. They are centres of social mobilization that oppose the neoliberal urban tendencies and they were developed from an ethical investment model, called "Rootstock"[121]. This model allows local estate values to stay out of the market in order to permanently be at the service of the community. Another type of initiative

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119   About 750,000 homes.

120   See www.radicalroutes.org.uk.

121   See www.rootstock.org.uk.

is the Findhorn Ecovillages[122] (inspired by religious ideals and identifying with the environmentalist movement) or the recent Lancaster Cohousing project[123] in Halton Mill (Lancashire) that combines private property and communal elements. However, despite their innovative and sustainable character, some of these models are far from being radical and democratic, since they are only available for people with sufficient economic capacity to invest in this kind of real estate project.

Regarding the use of the right to the city political banner in the British context, we should notice that it is not often explicitly invoked and, therefore, it is not a catalyst of social movements and urban struggles. The rare times when the term does appear, it is references the works of David Harvey (2008, 2012) and Edward Soy (2010), especially after the 2012 urban riots and demonstrations. Thus, the right to the city is a term circumscribed to certain intellectual environments, like the Development Planning Unit of the University College of London[124], the Cities Centre of the London School of Economics[125] or left-wing magazines like Red Pepper[126] or the New Left Review[127].

Based on interviews conducted with some British activists, the reasons that explain the low attractiveness exerted by the right to the city in the United Kingdom concern the idiosyncrasy of the country's sociocultural context. British society is, in general terms, little prone to be led by large political banners or reference gurus, especially if they come from the academia. Moreover, social movements tend to carry out sectoral and concrete struggles (affordable housing in the neighbourhood, the non-disappearance of a certain green space, using an unused property as civic centre etc.) circumscribed to certain space and time (the neighbourhood or the district). Finally, the

existence of a very particular legal traditional, common law, which does not grant the same force to the "right" term[128]: In words of two anti-gentrification activists of the London Hammersmith neighbourhood.

It is not clear for me how the right to the city can have a future in the United Kingdom. Firstly, under a common law tradition, the word "right" is not so attractive. Even the LGBT and other movements whose struggles focus on improving individual rights do not use this term much. Words like "justice" or "equality" definitely have a bigger impact on us. A second problem concerns the word "city". Here, in London, city is only a part (the centre) of a larger agglomeration. And when it comes to urban struggles, nobody really thinks of London as a whole. We fight against the speculative developments in Hammersmith or against certain flagship projects that lead to gentrification. But we rarely focus on London (...), [which] is a city with very different cities in cultural and economic terms to articulate an unitary common fight. (...) Merging different and complementary things in large platforms is not very typical of how we build urban struggles in the United Kingdom! [...] In a way, a too big of a goal seems to be feared (...), [they] do not properly communicate with the citizens, which is why they tend to remain confined to small elites... There is another weakness that prevents a greater expansion of the right to the city concept and it concerns those who work with it, often too linked to the academic world [or] to radical people and groups perceived as queers.

Despite these considerations, recently, there were some transformations produced in the UK scenario of urban struggles that are noteworthy. For example, the People's Assembly against Austerity[129], created in February 2014 with

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122   See www.ecovillagefindhorn.com.

123   See www.lancastercohousing.org.uk.

124 See www.bartlett.ucl.ac.uk/dpu.

125   V. www.lse.ac.uk/LSECities/home.aspx.

126   V. www.redpepper.co.ug/.

127   V. http://newleftreview.es/.

128   Interviews conducted on June 26, 2014.

129 See www.thepeoplesassembly.org.uk.

the support of several intellectuals and artists[130]. This initiative marks an important inflection regarding the way social struggles have traditionally developed in the United Kingdom. The assembly gathers stakeholders and movements that, until then, fought in a fragmented way against the governmental actions that threatened human rights. Moreover, since it has developed a pedagogical work communicating the meaning of the word "austerity", unknown until the 2008 crisis, to the population as a whole[131]. In the protest action organized by the Assembly, in July 2014, some banners for the right to the city timidly appeared.

IIf this experience was replicated and deepened, perhaps this slogan could become in a new political banner for the British social movements representing struggles like the CLT, among others. There are several sectoral initiatives that can be gathered under this concept, like Reclaim of Night[132] that advocates for safer cities for women; Critical Mass[133], which claims for more spaces for alternative mobility; the Land Tax Value[134] and the Labour Land Campaign[135], which question the land private property the soil as one of the causes for social inequality. The elements that can conform a great alliance for the right to the city in the United Kingdom do exist; all that is left is to look forward that experiences like The People's

Assembly Against Austerity set a precedent in terms of political articulation of actors and work methodology.

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130 One of the international renowned artists that supports the initiative is the filmmaker Ken Loach. The open letter founding the Assembly states: "This is a call to all those millions of people in Britain who face an impoverished and uncertain year as their wages, jobs, conditions and welfare provision come under renewed attack by the government. (...)The assembly will provide a national forum for anti-austerity views which, while increasingly popular, are barely represented in parliament."

131 Regarding this initiative, the British activists interviewed for this research stated the following: "The Assembly did raise awareness, which is why today most people know what austerity is and understand cuts and deepening of the inequalities. This methodology could be applied to several other issues, building new political banners for social struggles."

132   See www.reclaimthenight.co.uk.

133   See www.criticalmassradio.co.uk and www.criticalmasslondon.org.uk.

134   See www.landvaluetax.org.

135   See http://labourland.org.

The Right to the City in Istanbul[136]

The Turkish context and fole of the right to the city

Turkey has a population of 76 million inhabitants (2013) spread between the European and Asian continents. The country holds the 90th position in the UNDP development human index (2012) and it is governed by a unitary parliamentary republic. Historically, Turkey has had a centralized State structure, with the central government being preponderant over the elected municipal governments. In this regard, its capital, Ankara, directly intervenes in the local governance, allocating a considerable part of its municipal budget and appointing district and province governors, therefore greatly reducing the elected mayor and councillors' authority as well as over the resources at their disposal.

When the European Union adhesion began, a package of economic, political and administrative reforms was implemented, among which was the country's decentralization and regionalization process. However, the necessary measures to deploy this process still have not been adopted. The fact that the Justice and Development Party (JDP), governing the country since 2002, obtained great part of its initial popular support due to an effective municipalism oriented at providing services adopted in the 90s, has not been translated into a greater stimulus for this agenda[137]. Probably, the significant weight the cities have in the country's economic growth explains why the national government wants to maintain its control over them[138].

This situation has prepared the ground for the development, in the last decade, of an increasing political, social and intellectual debate on the right to the city. The country's current economic policy is strongly based on urban transformation and on the extraction of natural resources for capital accumulation, which motivated the interest in this concept from part of society. It has been embodied, for instance, in the Turkish translation of several Henri Lefebvre books, such as "Everyday Life in the Modern World" (2011), "Critique of Everyday Life" Vol. One (2012) and Vol. 2 (2013), "The Urban Revolution" (2014) and "The production the space" (2014). David Harvey has also become a known author in academic and activist circles. "Spaces of Hope" (2011), "Spaces of Capital: Towards a Critical Geography" (2012), "Social Justice and the City" (2013) and "Rebel Cities" (2013) are some of the books recently published in Turkish.

The translation of the right to the city concept in Turkish is "kent hakkı". "Kent" means city and "Hak", "right". Nevertheless, there are others terms used by urban movements and ecologists regarding this concept, like "yaÐam alanı mücadelesi" (fight for spaces to live); the prefix "diren" (resist) used before a space in dispute (as Resist Gezi Park); or several rejection formulas referring to certain urban transformation projects. These are especially used by the general public since it is more specific and tangible than the comprehensive right to the city concept.

Regarding dissemination, a broad range of spaces that echo this concept should be mentioned, including mass media, blogs and webpages, popular platforms and national and local meetings.

1. **Mass Media**. In the mass media, there is a wide coverage the right to the city, with some journalists interested in informing on issues related with this topic. Some of them

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136   This chapter was elaborated with the inestimable collaboration of Yasar Adanali. The text here presented is a partial adaptation of a case study prepared by him and subsequently reworked by the research coordinators with the objective to give it greater internal coherence to the overall narrative of the report. We have always tried to respect the core spirit, data and reflections of the collaborator.

137   Many of the current political leaders of the JDP have arrived in the central government through the municipalities. Erdoğan, current president of Turkey, for example, was mayor of Istanbul from 1994 to 1998.

138   According to the Wall Street Journal data, published on August 14, 2013, during 2013 first semester, 60% of the decisions of the Council of Ministers was related to urban development projects. V. Wall Street Journal, 2013.

work in liberal and centre-left newspapers, like *Radikal* and *Taraf*, and others in left-wing newspapers, like *Evrensel*, *Birgün* or *Sol*. In these newspapers, the information regarding the right to the city to often published on the cover, achieving a national impact on the public debate. The matters relating to the right to the city focus mainly in urban and ecological destruction, and the resistance it generates by a share of the population and certain organized groups. They also stress the corruption cases happening between several government levels and the private industry in the urban development field.

In some television channels and radio stations, there are specific programs dedicated to the right to the city and to environmental movements. For instance, IMC TV has a program called "Green Newsletter" focusing on ecological issues; and "Open Radio" (*Açık Radyo*) transmits several programs on the right to the city and ecology.

Finally, it is worth mentioning the awarded documentary *Ecumenopolis*, addressing Istanbul urban transformation and the social struggle that emerged as a response[139].

2. **Social networks, blogs and webpages.** Social networks in general, and Twitter and Facebook in particular, are very used for the debate and the diffusion right to the city related issues. Urban social movements usually have updated blogs and they actively use social networks to share information, start campaigns and support causes, like the Calendar of Urban Resistance[140]. Although there are few urban blogs and webpages fully dedicated to the right to the city, the following should be mentioned: Reclaim Istanbul[141], Justice in the City[142] and Happy City[143]. On the other hand, there are some cartographic projects under way that show urban and ecological areas in dispute, such as Environmental Resistance[144], Mega Istanbul[145] and the Eviction Networks[146].

3. **Civic platforms and networks.** The Chambers of Architecture and Engineering are the society civil organizations with public mandate that represent the country's urban planners, architects and engineers. These professional groups play a very significant role regarding the straight to the city since they publicly denounce illegal projects of urban transformation and prosecute them in the courts[147]. They also actively mobilize against actions like the demolition of proclaimed urban heritage sites, the granting of special construction licenses for certain real estate developers or the privatization of public owned land. Besides these actors, citizens groups have been constituted which oppose the transformation of important public spaces or areas considered urban heritage, like Haydarpaşa train station, the Emek theatre or the Taksim square, to which we will devote the next section. The platform "The Emek Theatre is ours" has been one of the most visible initiatives related with the right to the city and it could be considered the "Occupy Gezi Park" movement's predecessor. The group consisted of urban activists, actors and actresses organizations, groups of urban heritage conservation and professional chambers, who tried to stop the demolition of one of the most important cultural spaces in Istanbul to build commercial centre (*Hürriyet Daily News,* Three of March of 2013)[148]. The opposition movement succeeded in gathering a great number of people against the project. Groups like this one, although having a deficient coordination structure and far

139   Azem, Imre (2012). *Ekümenopolis: City Without Limits*. Turkey: Kibrit Film.

140   See www.kentdirenistakvimi.org.

141   See www.reclaimistanbul.com.

142   See www.kentteadalet.org.

143   See www.mutlukent.wordpress.com.

144   See www.direncevre.org.

145   See www.megaprojeleristanbul.com.

146   See www.mulksuzlestirme.org.

147   For more information, see for example the website of the Platform for Architects: www.arkitera.com.

148   See www.hurriyetdailynews.com/demonstrators-occupy-istanbuls-historic-emek-theater-to-protest-demolition.aspx?pageID=238&nid=44027.

from being a mass movement, got some victories through of strategies such as occupation, resistance against the police and media.

4. **Scientific magazines and books.** There are numerous (semi-academic and critical) magazines that address the right to the city, like *Birikim, Express* or *Kolektif*. Regarding to scientific magazines, the *Eğitim Bilim Toplum* magazine has a special issue dedicated to the right to the city, collecting theoretical discussions on the topic and case studies from Turkey and worldwide (VVAA, 2011).

5. **National and local meetings.** Regarding panels and conferences on the right to the city and related themes, Istanbul a very active city. In fact, the organization of meetings is one of the tactics used by social actors to object the hegemonic urban practices. The "Panel on the Right to the City" is noteworthy, organized in the reclaimed Istanbul Yoğurtçu Park in August 2013, in which activists and scholars debated the right to the city with over 400 members of the community. In addition, after the police put an end to the Gezi Park occupation in June 2013, numerous local assemblies arose in the parks all over the city. On a national level, the right to the city and the public space were the main themes of the 13th Istanbul Biennial (2013), an international artistic event organized by the Istanbul Foundation for Arts and Culture.

Finally, in terms of legislation, it should be noted that not only there is no law recognizing the right to the city, but also the recent legislative changes have prepared the ground for the country's current urban transformation through a neoliberal logic. The new laws on urban planning ease the urban renewal of informal neighbourhoods, downtown areas and places proclaimed urban heritage. Responding to this, the number of legal battles initiated by citizens groups or urban movements has increased. Their main strategy is to open judicial prosecutions against urban renewal projects and plans[149], as well as launching campaigns for collecting signatures, intensively publicizing the legal process in course, organizing demonstrations, participating massively in legal processes or sending press releases. The success of some of these legal prosecutions has increased the urban opposition's self-esteem and has influenced the public opinion in general.

The public space dispute in Istanbul: the riots in Taksim Square and Gezi Park

Istanbul, with 14 million inhabitants, is Turkey's biggest city. Even though Ankara is the official capital, Istanbul is in fact the country's economic and cultural capital, responsible for 30% the national GDP. In recent years, it has become a global city integrated in the world economic fabric[150] and it receives a growing number of visitors. In terms of local governance, the city is divided in 39 districts, each of them with a mayor elected in his/her constituency who shares the responsibilities with the central government.

In the last decade, the city (like the country as a whole) went under a transformation process based on a global renovation strategy consisting in the city's internationalization and neoliberalization, along with the standardization of public spaces (Candelier-Cabon and Montabone, 2009). Consequently, Istanbul has long suffered a profound urban transformation, comprising privatization processes, loss of public spaces, gentrification[151], evictions[152] and environmental deterioration.

In this context, in 2013 the biggest popular mobilization in the country was produced against an urban renewal project that

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149   We highlight, in this regard, the role played by Hope Association - Solidarity Study.

150   For details, see Adanali (2011).

151   Just like it happened to the neighbours of the TarlabaÐı neighbourhood in the city centre.

152   One of the social responses to this issue was the creation of the platform "We are Tenants": www.kiraciyiz.biz.

affected a public space and an adjacent green space of great symbolic value to the city. The protests quickly propagated beyond the city and led to the articulation of intertwined demands that claimed for a social, political, economic reform in the entire country. The different dimensions of the protests and the nature of the demands had a global echo.

The areas affected by the urban renovation project in Istanbul were the Taksim Square, the most central public space and the most politically charged one[153], and the Gezi Park adjacent to it. The park, founded in the early 1940s, is one of the very few non-privatized public spaces that still exist in downtown Istanbul and it accounts for 15% of all the green areas in the city, in a neighbourhood where a quarter million people live and that also receives 2 million daily visitors.

The Turkish central government intended to convert the Taksim Square in a sort of museum space and to transform the Gezi Park by rebuilding old military barracks from the 1930s, which would be converted into a commercial centre. Simultaneously, a new infrastructure project called "Taksim Pedestrianization Project" was implemented, one that has radically transformed the square's mobility model, redirecting the traffic to an underground tunnel.

Since their conception in early 2011, the new plans for Taksim Square and the Gezi Park triggered a strong opposition. Despite the spontaneity of the arising protests, it is certain that the resistance to the city's neoliberalization is not new. The Chamber of Architects and Urban Planners had been mobilizing for ten years and, in fact, in 2005, got annulled the Dubai Towers project proposed by the Dubai emir Rashid Al Maktoum and supported by the Prime Minister and the Istanbul Mayor (Montabone, 2013: 4) [154]. Because of this already articulated

network, the 2013 mobilizations took shape and grew rapidly. Therefore, in response to Taksim Pedestrianization Project, publicly notorious scholars and intellectuals founded the Taksim Platform in 2011. This group managed to collect 50,000 signatures against the Project, although this was not enough to paralyze it. In March 2012, the Taksim Solidarity Platform was founded[155], integrated by nearly 120 organizations with the aim of broadening the Taksim Platform[156]. These organizations can be classified in the following groups: Chambers of Architects, Urban Planners and Engineers; unions and professional organizations; political parties (social democrats, socialists, communists and anarchists); urban environmental movements; the LGBT collective[157]; grassroots groups (from informal settlements and middle class neighbourhoods or to bourgeois areas); and artistic and cultural organizations.

However, the high point would not come until 2013, when a small group of less than 50 activists tried to avoid the removal of trees in Gezi Park by making a human shield to protect the trees from the machines. The police responded violently, which quickly led to more protests and, in less than five days, half a million people were protesting in Gezi Park and Taksim Square. The mobilizations rapidly propagated to nearly forty Turkish cities, and Ankara, Izmir, Antalya, Antakya, Bursa and Mersin, to mention only a few, also featured clashes between protesters and the police[158]. Some days later, with a balance of several dead (three protesters and one police officer), the government ordered the Police to be removed from the Park and the Square area, in an attempt to calm down the situation. The movement, which by then was already known over social networks as #OccuppyGezi, began to express itself in different ways: celebrating citizens assemblies in parks in several

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153   Taksim Square is a symbol of democracy in Turkey, where one can find a monument to the heroes of the independence and the Ataturk Cultural Centre, the greatest exponent of the country's cultural opening.

154   The role of the College of Architects and of the College of Urban Planners and the United Turkish Doctors was so significant that it motivated the adopting a series of legislation changes to structurally weaken them: their resources were limited and their responsibilities were cut.

155   See www.taksimdayanisma.org.

156   See the Platform's website: www.taksimplatformu.com. The list of members is available at http://taksimdayanisma.org/bilesenler?lang=en.

157   Lesbian, gay, bisexual, and transgender.

158   There are numerous photographs and videos in the website http://capul.tv, among others. For more information on the chronology of the events, see Holleran, 2013.

cities, cacerolazos[159], intermittent blackouts of domestic light, discussion groups at the exit of the institute or at the entrance of residences, ringing sirens in some ships in the Bosphorus, flags in balconies and windows and the use of the Ataturk image as symbol of secularism (Montabone, 2013: 4). The strong social media activism played a significant role in spreading the protests and in strengthening the resistance movement.[160]

The movement demands can be synthesized by : preserving the park, ending the violent repression, banning the use of tear gases, releasing the detained protesters and removing the obstacles for demonstrations in squares (Bianet, July 4, 2013). These "modest" claims irritated both the movement and the government. The former considered that this unprecedented uprising, which had already expanded to the main Turkish cities, could not be limited to demands concerning the park and the police violence: the very Prime Minister should resign. The later thought the claims were not realistic: the police violence had been a necessary response to the riots and the elected city government was the entitled one to decide on the future of Gezi Park and Taksim Square.

Regarding the movement's main values, although it started to protect a public space and a green space, principles like freedom of expression, protection of everyone's livelihood, the right to not be subject of State violence, and the claim for spaces of participation were at the centre of the struggle. Other values that characterized the movement were[161]:

- **Diversity.** The community of activists who occupied Park Gezi was composed by a great plurality of individuals and

groups, such as environmentalists, feminists, secularism advocates, activists for the rights of Armenians and Kurds, socialists, communists, Islamists, anti-capitalists and advocates of the LGBT collective. Nevertheless, the movement, that allowed expressing particularities and presenting specific demands, formed, above of all, a unified collective fighting for a common objective. The inevitable contacts and interactions among the crowd potentiated the collectively feeling of among diverse groups.

- **Appropriation of the public space.** TThe mobilizations were soon translated into processes of public space appropriation or production of new spaces. The Gezi Park, a highly controlled and closed area, turned into a recovered space that started holding multiple functions: there were spots to do speeches, gardens in plots, popular canteens, libraries, flea markets for exchanging objects, medical centres, coffee houses, day cares, a museum (about the protests), self-managed TV stations and monuments in memory of the movement's martyrs.

- **Self-government.** The celerity in producing the above-mentioned space was connected with the way the movement was organized. The park and the square were quickly converted into self-governed spaces with strong participation and political implication, but with minimal forms of representation.

- **Democracy consolidation.** From the first days of the protests, the citizen right of political participation was explicitly claimed. This was clearly put in the spaces for speeches (which reflected the claim for freedom of expression and the right to be publicly heard) as well as in the movement's assemblies. It was a new democratic experience, one that had the goal of developing horizontal mechanisms of organization and of collective decision-making, without leaders or intermediaries.

- **Anti-capitalist logic.** Regardless of the plurality and heterogeneity of the movement, the common denominator for all actors involved was the rejection of the predominant capitalist logic. At first, this rejection was expressed by the resistance to the urban space privatization; then,

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159   [Translator's note] *Cacerolazos* are a form of protest that consists in a group of people making noise by banging pots, pans, and other utensils to call for attention.

160   Social networks have played an important role not only inside Turkey but also at the international level. It is worth mentioning the international platform of solidarity with Taksim and Gezi articulated to through the blog Everywhere Taksim: http://everywheretaksim.net/about/.

161 Information collected by Yasar Adanali, who accompanied all the manifestation process and conducted a field research using data collection methods like participant observation and semi-structured interviews.

by the logic established in Gezi: solidarity practices, sharing and the gift economy. Coins were not allowed and the basic needs (food, water, medical attention, books, entertainment, art, etc.) were directly covered by the groups that occupying the park.

The protests had a positive outcome because, after two years mobilizing, finally the Turkish Constitutional Court invalidated the urban renewal project for Taksim Square invoking its legal incompatibility with the city urban plans (Montabone, 2013: 2). However, as a result of the uprising, the government increased police measures and exercised a greater pressure over public spaces to avoid more mobilizations. Nevertheless, the social process initiated in Taksim Square and Gezi Park has continued beyond their geographical limits. In this regard, local popular assemblies have proliferated in 40 parks of the city (as well as in the entire country); a wave of occupied spaces has emerged, which generated community cultural centres, urban orchards or solidary shops; platforms have been articulated in Istanbul's neighbourhoods threatened by urban renovation projects[162]; the city's social and political movements pay higher attention to the spatial dimension of the issues they work with; and the public awareness regarding the city's ecological problems has increased. Also in less than a year, over 50 books on the Taksim and Gezi uprising were published (Güçlü, 2013).

The protests' impacts materialized not only in the city of Istanbul, but all over the country. In this regard, what happened in the Turkish metropolis was often the antechamber of initiatives that were afterwards produced in other cities throughout the country. Just like when, a few months after of the Taksim and Gezi riots, the neighbours of a nearby neighbourhood painted their housing stairs with the rainbow colours to support the mobilizations. Social networks quickly spread the action but the district's government reacted with

great speed by re-painting the stairs grey in less than 48 hours. The next day, thousands of people and collectives located in public spaces painted their steps not only in Istanbul, but all over the country. Some municipalities were able to adapt to the phenomenon, providing free paint.

Urban Revolution and critiques to the status quo

In Istanbul, the last decade was featured by an increasing In Istanbul, the last decade featured an increasing centrality of the urban resources in the accumulation process of the neoliberal economy and a low rate of popular participation in the decision-making processes related to urban management. This double crisis, ecological and democratic, has generated a wide opposition from several kinds of movements (old, new, political, social and urban ones) that were not organized until then. The resistance and the protests originated a new collective imaginary on the city and resurfaced "the public" as a political ideal in a context of extreme privatization and commodification of the city. Thus, in the search for the post-neoliberal city, public space and its defence have played a crucial role by articulating struggles and movements, going from a situation where stakeholders were fragmented to the emergence of a wide alliance whose common denominator has been space and territory as a collective resistance framework.

Authors like Dikec (2013) or Pérouse (2013) suggest there is a connection between the latest mobilizations and the balance of 10 years of Justice and Development Party government. Montabone also notes, accordingly, that the demonstrations were not just a result of rejecting certain urban improvement projects. In fact, Taksim Park apparently had a bad reputation due to drug trafficking and prostitution before the 2013 events (Montabone, 2013: 3). "It is not a matter of trees, it's about democracy" said one of the manifestation slogans. The "Occupy Gezi" movement and the right to the city claim catalysed the discomfort with the drift towards authoritarianism, conservativeness and Islamism of the national government party that, only in the 2013 spring, had triggered several controversies: banning alcohol consumption

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162   For example, in the district of Sarıyer arose the Platform of Neighbours Associations and Cooperatives to defend the security of tenure of their neighbourhoods through collective land property transfers. Some of these platforms managed to stop gentrification projects.

in public spaces, limiting the sale of the morning-after pill and developing moral discourse on the ideal of woman – the mother of three children. Therefore, what underlies the Turkish mobilizations was a critique to the political (authoritarian), economic (neoliberal and consumerist) and moral (religious and conservative) predominant order, which materializedin an urban conflict (Montabone, 2013: 8-10). As Lefebvre already noticed in the 60s, the city is the mediation space between the "distant order" (composed by the political, economic, social structures) and the "first order" (the immediate relations of the people) (Lefebvre, 2009 [1968]: 44). Something the experience of Istanbul probably reflects well.

The Right to the City in Hamburg[163]

The models of urban development are more and more similar in several advanced capitalist countries and the forms of urban government have converged so much that it is not surprising that the movements which challeging and opposing them, at least in the Global North, have followed similar cycles. (Mayer, 2009: 363)

Urban struggles in the German context

With 81 million inhabitants, Germany is a federal State and one of the strongest economies in the region. The country's socioeconomic features differ considerably from one city or region to another. Over twenty years after the reunification, Eastern Germany citizens still earn less than those in Western regions, where the economy is stronger. Similarly, there is a strong difference between the North and the South. The polarization and the socioeconomic differences appear even within the same city - problems that were attempted to be solved through a series of urban development programs financed by the Federal Government and the states. Besides traditional urban renewal actions, special national programs like "Social City" (Soziale Stadt) and "City Rehabilitation" (Stadt Umbau Ost/West) were introduced to mitigate some of the negative socioeconomic and demographic transformations. However, these programs had limited capacity to reorient structural socioeconomic tendencies. Furthermore, the current context of economic crisis has worsened the situation since it motivated cuts in social services and disinvestment in public infrastructure (increasing poverty and unemployment

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163   This chapter has been elaborated with the inestimable collaboration of Manuel Lutz, Laura Colini and Michael Rostalski. The text here presented is a partial adaptation of a case study prepared by him and subsequently reworked by the research coordinators with the objective to give it greater internal coherence to the overall narrative of the report. We have always tried to respect the core spirit, data and reflections of the collaborator.

rates). It has also stimulated the sale of public properties by the municipalities to acquire some liquidity. Social inequality has reached its historical maximum - 15% of the population is considered poor and there is a wider gap between the rich and the poor (World Socialist Website, 2014).

In terms of urban resistance, it has been nearly a century since Germany has reaped a great number of experiences varying from the fight for adequate housing or egalitarian education to the demand of public spaces and leisure areas. These demonstrations were object of research of experts on urban movements (many of whom were also activists) that, since the late 1990s, began using Lefebvre's work to re-contextualise and analyse the urban resistance phenomenon from a perspective different from one provided by the classic urban sociology. Subsequently, the influence of international actors in Germany, like the BUKO networks (Bundeskongress Internationalismus) or the Habitat International Coalition (HIC), played an important role in the diffusion of the right to the city, based particularly on the experiences developed in Latin America. Nowadays, the emergence of the financial and real estate crisis has contributed to increase the interest in the urban struggles and the right to the city. .

The highpoint of this process was in 2008, when two conferences were organized in Berlin: "The Right to the city: Prospects for Critical Urban Theory and Practice" held at the Technische Universität Berlin (Brenner, Marcuse and Mayer, 2009)[164]; and "Right to the City: social struggles in the neoliberal city"[165], organized by the BUKO *Stadt-Raum* working group with the support from the Rosa Luxemburg Foundation. Among recent meetings, two BUKO international congresses are noteworthy: they were held in Hamburg (2011)[166] and Leipzig (2014)[167] with the goal of analysing experiences, strategies and tactics of the movement for right to the city inside and out Germany. In other aspects, the legal instruments that can translate the right to the city (taking Brazil as an example), the formulas that allow guaranteeing the right to housing (rental price limitations, occupations, construction of social housing, housing cooperatives), the deprivatisation of public infrastructure[168], the common goods and the solidary economy were explored. The Leipzig congress, which addressed "Urban struggles and freedom of movement" (*Alle oder nirgends*), also discussed migration and fight against racism. Parallel to these moments of debate, papers and publications on Lefebvre's thinking in general and the right to the city in particular have proliferated (Schmid, 2011; Holm 2009a; Holm 2009b).

The linguistic formula used in Germany is *"Recht auf Stadt"* (literally "right to the city"), which has served to allude to different struggles encompassed within Lefebvre's critique to the hegemonic urban model. With no intention of being comprehensive, we mention the following: the defence of the so-called "free spaces" (*Freiräume*); campaigns like "We all stay" (*Wir bleiben alle*)[169] or "No to forced evictions" (*Zwangsräumungen*)[170]; mobilizations for the right to housing (*Recht auf Wohnen*) articulated after occupations or cooperatives, like "kotti&co" in Berlin[171]; movements against the construction of big infrastructure works (such as the Stuttgart21 railway station in 2010-11[172], the *MediaSpree* coastal development project in Berlin in 2008-2010[173] or the extension of the third landing strip in the Frankfurt airport); and, finally, pressures against the sale of municipal commons in Dresden or the demolition of the *Gängeviertel* historic buildings in Hamburg.

164   See www.geschundkunstgesch.tu-berlin.de/fachgebiet_neuere_geschichte/menue/veranstaltungen_aktuelles/the_right_to_the_city.

165   See www.buko.info/buko-projekte/as-stadt-raum/right-to-the-city/startseite.

166   See http://kongress.rechtaufstadt.net.

167   See www.buko.info/buko-kongresse/buko-36.

168   In Hamburg and Berlin, for instance, the social pressure forced to the municipalities to desprivatise the water and energy infrastructure.

169   See www.wirbleibenalle.org.

170   See http://zwangsraeumungverhindern.blogsport.de. These campaigns are occasionally led by groups linked to the International Alliance of Inhabitants (IAI, http://www.habitants.org).

171   See http://kottiundco.net.

172   See www.alle-gegen-s21.de.

173   See www.ms-versenken.org.

These experiences and strategies, among others, were discussed in the "Reclaim the City" events (*Unternehmen Stadt übernehmen*), organized in 2009 in several German cities[174].

Despite this plurality of experiences, during some years the use of the right to the city was restricted to radical left-wing activists and scholars. Nevertheless, since the late 2000s, other stakeholders were added to this discussion: local activists from several German cities that developed networks for the right to the city (for instance, in Leipzig, Freiburg, Frankfurt, Muenster and Potsdam)[175]; artists and groups from the cultural industry[176]; and the people responsible for political education in the Rosa Luxemburg and Heinrich-Boell foundations. The right to the city has thus become a polysemic political banner able to represent various struggles, hitherto fragmented[177].

Yet, it cannot be said the public in general has access to this kind of political formulations. The daily press, for instance, does not echo these debates and, when it has covered mobilizations for the right to the city, this kind of media does it superficially, dubbing them "anti-gentrification protests". The only time what a more serious media approach was produced was when David Harvey gave an interview to the *Der Spiegel* newspaper in 2013 (Twickel, 2013). However, in general, to have access to information about these mobilizations, it is necessary to resort to certain websites or magazines, like *Blätter für deutsche und internationale Politik* (Holm, 2011), *Graswurzelrevolution* (2014), *Analyse & Kritik* (2009). In the public debates on these mobilizations (as the ones regarding the Stuttgart21 train station, the *Gängeviertel* occupation in Hamburg or the

MediaSpree urbanization in Berlin), even the activists use the right to the city as premise of argumentation, but they do not discussed it further with a wider audience.

Finally, regarding the institutional policy, there are no direct references to the right to the city in national, regional or municipal legislation and no human rights charter was adopted on any government level. Yet, several rights that backbone the right to the city (like the ones gathered in the World Charter for the Right to the City)[178] are recognized by the German Constitution. Moreover, principles like citizen participation in the political process are established elements of the urban planning practice. However, there is not a structured debate on how to incorporate the right to the city contents into German policies. Maybe this has to do with the struggle strategy used by the right to the city in the country, which prioritizes influencing certain decision-making processes (the privatization of a certain common, the construction of a certain infrastructure, etc.) instead of aspiring to influence policies or legislation.

The right to the city in Hamburg

Hamburg is the second biggest German city with 1.7 million inhabitants. It constitutes per se a Federative State (*Land*) called *Stadtstaat*, divided into seven districts with powers similar to the municipalities. Hamburg is a port city with a strong commercial tradition, currently being one of the twenty greatest container ports in the world. This is a very polarized city where we can find both the highest concentration of millionaires in Germany, but where we can also find some of the poorest neighbourhoods in the country.

In the last decade, the municipal government adopted a pro-growth agenda and designed policies to reactivate the economy, mainly through real estate investment. It has been regarded worldwide as a history of success. In fact, in 2006, *Stern* magazine described the city as "the most glorious winner

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174   See www.buko.info/buko-projekte/as-stadt-raum/stadt-uebernehmen.

175   See www.leipzig-stadtfueralle.de; www.rechtaufstadt-freiburg.de; http://rechtaufstadtfrankfurt.blogsport.de; http://rechtaufstadtmuenster.blogsport.de; www.rechtaufstadt-potsdam.de.

176   Apart from the case of Hamburg (which will be described below), we should include the translation to the German of Lefebvre's *The Urban Revolution* by the art collective "Dresden Postplatz"(Lefebvre, 2003).

177   Some of the used slogans: "To whom belongs the city? The city is for all" (*Wem gehört die Stadt? Die Stadt sind wir alle*) in Potsdam, "Not in our name" in Hamburg; and "We all stay" (*Wir bleiben alle*) in Berlin.

178   See http://www.hic-net.org/document.php?pid=2422.

of globalization in Germany" (*Stern*, July 2, 2006). With the *Hafencity* project as flagship (a great operation of maritime facade renovation and of rehabilitation of several adjacent working class neighbourhoods), the city has completed one of the greatest construction works in Europe. Parallel to this urban operation, the number of public housing decreased the most in ots history and the rental cost in the city centre, traditionally inhabited by the working class, increased[179]. The struggle of the right to the city movement in Hamburg focuses on the accelerated dynamics of investment and the displacement and marginalization of the poorest citizens.

Its background dates to several decades ago. Between the late 80s and the early 90s, properties were occupied in *Hafenstrasse*, the city centre, as a way of accessing affordable housing. The occupation was severely repressed, but it managed to resist and become a legal housing cooperative (1995). Other important symbol of resistance was the *Rote Flora* social centre, occupied since 1989. *Bambule,* an informal settlement of restored circus trucks and caravans (*Bauwagenplatz*), did not have the same luck and was evicted in 2002, considerably destabilizing and fragmenting the urban grassroots movements[180].

A decisive year for the revitalization of the urban resistance was 2008. That year, several movements founded the *Centro Sociale*[181], a space of critical reflection on the urban restructuring processes in course that catalysed the articulation of several actors from of the social, cultural and artistic scenes under the right to the city political banner. This is how, with a range of almost 60 groups, the Right to the City Network was created (*Recht auf Stadt Netzwerk*)[182]. For the

first time, different segments of Hamburg's political and social sphere (such as neighbourhood associations, groups of artists, left-wing groups, communities of migrants[183] and revolutionary groups[184]) were united under a common objective (Oehmke, 2010; Recht auf Stadt, 2010; Novy and Colomb, 2013). That same year, the *Centro Sociale* organized a meeting with the slogan "Let us exercise our right to the city! You'll find it in the streets, hanging from the trees and hidden under the cobblestones"[185].

Differently from what occurred in other contexts, the promoters of the local debate on the right to the city in Hamburg were activists from the critical arts and culture industry. Their urban intervention has played a significant role sincethey prompted the Park Fiction community project in the St. Pauli neighbourhood, in the mid-90s. Their goal was to promote the appropriation of an empty public space to build a park. The key element was the process of "creating a collective will" inspired by the Situationists (Schaefer, 2004), that would go beyond the park construction itself to boost an actual practice of city creation by and for its users.

After Park Fiction, other actions took place, like "It is raining caviar" (es regnet Kaviar) which criticized gentrification processes. However, the intervention with greatest visibility for the artistic and cultural collective was the resistance to the re-urbanisation project for the *Gängeviertel* District, a working class district since the 19th century. Nearly 200 artists and activists occupied, in 2009, the last buildings left in this neighbourhood to challenge the municipal government decision to sell its public properties to an investor[186] that intended to demolish most of the buildings to create a new housing and offices complex. The protesters shouted the slogan "The city

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179   According to activists of the Network for the Right to the City, www. rechtaufstadt.net.

180   Along with these experiences, numerous grassroots initiatives proliferated which fight to collectivize housing and cultural spaces, many of which are concentrated at the St. Pauli central neighbourhood.

181   See www.centrosociale.de.

182   See www.rechtaufstadt.net, where it is possible to find detailed information on their activities (documents, videos and photographs). Some

texts are available in English. For more information on the Network's origin, see Oehmke, 2010; Recht auf Stadt, 2010; Novy and Colomb, 2013.

183   An interesting example of how the right to the city has been used in Hamburg to defend the rights of migrants can be found in Wilde, 2014.

184   For example, the Avanti Project: http://avanti-projekt.de/hamburg.

185   "Nehmen wir uns das Recht auf Stadt! Es liegt auf der Straße, es hängt in Bäumen und versteckt sich unter Pflastersteinen".

186   Hanzevast Holding (Netherlands).

belongs to us all!" (*Die Stadt gehoert allen*), using, for first time, the right to the city perspective to demand not only a concrete measure (the sale paralysation), but also the execution of a democratic planning process including the inhabitants and ensuring low rents. As consequence of this resistance, the municipal government backed off the sale operation (assuming a 2.8-million euros overrun) and authorized the creation of housing cooperatives. Another initiative launched by the same group that obtained broad support was the NiON manifesto, "Not in Our Name!", against culture commodification (Florida, 2002; nion, 2010).

The Right to the City Network has been inspired by this kind of actions. For example, every year, it organizes a demonstration against the "rental madness" (Mietenwahnsinn), attended by thousands of people. In addition, as soon as the investors' new plans for renovating central districts are made public, mobilizations are produced (banners in buildings, occupations, neighbourhood meetings). The movement uses a broad range of strategies that goes from action to bargaining: demonstrations, occupations, clashes with the police, satirical reviews, referendums[187] and negotiations with the municipal government. This combination of strategies is a clear reflex of the network's heterogeneous composition and of the lessons learnt in the past, which showed that the constant belligerent and radical struggle is sometimes counterproductive for generating institutional reactions that have repressive and police-related character (v. John, 2010). A good example of this combination of strategies took place in the Bernhard Nocht neighbourhood (Bernhard Nocht Quarter, BNQ), a traditionally working class neighbourhood located in St. Pauli. The plans for urban renewal triggered the citizen protest "No BNQ"[188], which

combined resistance and action: the collective decided to not only protest against the plans, but also to present a proposal to buy the buildings for approximately 50 million euros. The proposal was rejected, but the initiative illustrates a different model of struggle that integrates diverse approaches. Moreover, the strategy's proactive side shows that public institutions are not the only ones that have the power to look after the commons or the public interest (John, 2010).

It should be noted that the "Gängeviertel artists" (Oehmke, 2010) and the Right to the City Network have been able to influence Hamburg's local policies. Besides halting the urban operation in Gängeviertel, the mobilisation environment in the city has redirected certain urban development processes. One example is the renewal project of the Wilhelmburg neighbourhood, whose developers have committed to not evict anyone. Another one is the creation, by housing corporations, political parties and community groups, of the "Alliance for rent" initiative (Mietenbündnis) to promote fair and affordable rentals[189].

The impact of these experiences has transcended the local area, stimulating a new "culture of resistance" all over Germany (Novy Colomb 2013; Holm, 2010). Indeed, almost all the discussions on the opposition to real estate speculative developments and the market-influenced urbanism include references to Hamburg's Gängeviertel. Probably one of the factors that explain the movement's visibility is that the group, composed by members of the artistic and cultural industry, knows how to use the necessary communication tools for making its message reach the public.

Some notes regarding achievements and challenges

In recent years, the debate on the right to the city has intensified in Germany. Several local and inter-municipal networks and initiatives, as well as academic circles, have

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187   The Network has promoted several referendums that have allowed including the set of the citizenship in the discussion of future urban scenarios and influencing the municipal government's decision-making. Even in cases in which the referendums did not have the expected result by the movement (for example, the one against of the opening of an IKEA centre downtown that held a result favourable to the company's plans), they have helped increase public awareness about urban matters.

188   See www.rechtaufstadt.net/netzwerk/interessengemeinschaft-no-bnq.

189   See www.mietenbuendnis.de.

appropriated the concept and found ways to use it in their struggles and reflections, either in large or small cities. The main value provided by this concept seems to be able to united and represent different urban struggles and problematics, hitherto fragmented. Furthermore, the German experience shows how a political banner traditionally used by the radical left is being used by a wide and diverse range of stakeholders (neighbourhood associations, communities of migrants, the artistic and cultural industry, the working class, Marxist people, anarchists groups, etc.). In some way, it clearly manifests a new way to understand the urban element as a whole, to articulate the citizen discontent and collectively build alternatives.

It is also important to note that one of the German case's weaknesses is the little knowledge on the theoretical meaning of the right to the city or of experiences from other parts of the world that show how this concept can be used in practice. Its use seems to be almost limited to a political slogan. The Hamburg experience is an exception nevertheless. In this city, the right to the city has been used in a more sophisticated way, conveying concrete protests against certain urban renovation plans, evictions and the destruction of cultural and political alternative spaces. Hamburg's Right to the City Network is, therefore, the best example of local alliance for the right to city in the German context.

The movements inspired by this experience affirm that the elements that can better replicate this type of network are: (I) keeping the network active through activities and regular meetings, avoiding the predominance of certain themes, approaches or leaderships on behalf of better inclusion; (II) guaranteeing a good dissemination of the accomplished works; (III) providing a neutral working and meeting place, i.e., not associated with certain political shades or social struggles (in the Right to the City Network, this is the Centro Sociale); (IV) using a broad range of strategies and tactics consisting of different actions like media incidence, negotiations with politicians, promotion of public referendums, demonstrations, creative interventions in public spaces and occupations.

However, despite being an experience that generated great results, Hamburg's Right to the City Network is still facing different kinds of challenges . In geographical terms,

if, on one hand, the location of its headquarters in the city's centre facilitates the access from different parts of the city; on the other, it highlights the separation between centre and periphery. In political terms, there are constant attempts of internal division by the media, the police and the government. The role of artistic and cultural groups has been fundamental here. In a city where creativity is a source of profit, these actors have remembered its function in the local economy, simultaneously claiming for political autonomy and rejecting the market instruments.

Although the balance of this experience forces us to highlight the difficulties faced, it is certain that Hamburg's movement has, to its own credit, the merit of managing to transform the institutionalized urban meaning (Castells, 1983: 305), thus challenging the logic, the interests and the values of the city's dominant class.

Other Interesting Experiences

The right to the city in Utrecht

Utrecht's work on human rights started around 2010 when the town was invited to participate in a human rights project promoted by the European Union Agency for Fundamental Rights[190]. This beginning, stimulated by a governmental institution that works for national governments, has considerably marked both the path taken by Utrecht and the main concern that oriented its action until now: How can the city contribute to implement human rights established by international treaties?, through which public policies?

With these background questions, the city elaborated in 2011 the study *Human rights in Utrecht: How Does Utrecht Give Effect to International Human Rights Treaties?* (Utrecht City Council, 2011) in which are analysed ten municipal policies under the human rights perspective, according to their international regulation. The areas chosen for the study were: anti-discrimination, poverty eradication, immigration, bodily integrity, social welfare, public peace, human trafficking, social corporate responsibility, human rights education and health. For each area, a municipal policy was identified and it was analysed to what extent the local government political action contributes to guarantee the international human rights obligations. In some cases, the study concludes the city complies with these obligations and, in others, that it should improve some aspects of its policies. It also indicates that, sometimes, the city gives continuity to national policies (for instance, the policy against domestic violence); in others, however, it openly contravenes the national policies by prioritizing the protection of certain rights human (for example, providing shelter to people seeking political asylum). Finally, there are circumstances when the municipal policy fills a political vacuum due to the absence of measures on the national level (for example, regarding addressing the prostitution issue).

Besides this internal reflection over the local municipal policy, which seeks to explore what is specifically the role played by Utrecht in guaranteeing human rights, another line of action is being developed, aimed at articulating different local human rights initiatives led by individual citizens, NGOs or even by the private sector located in the municipality. The final objective is to establish a network of actors that share the same "human rights culture" which allows multiplying their defence in the city territory, beyond the action of the city council itself.

According to official sources[191], the Utrecht approach is based on the following elements: (I) seeing the human rights implementation as a process, not as project or a punctual action of the municipality; (II) conceiving human rights as a transversal element that should inspire the set of public policies; (III) trying to identify ways to "localize" or "municipalize" the human rights, i.e., how they can be translated into public policies; (IV) granting culture an important role in advancing human rights.

We could say that Utrecht is a singular example within the existing regional tendency in Europe since the 1990s, consisting of local governments' self-assertion and political actors who want to define their own agenda drawing human rights charters that will determine their municipal policies. Recognizing that the signature of charters does not warrant greater protection, respect and guarantee of human rights on the local level, as noted on Chapters 1 and 2, it seems like an interesting form of promoting a joint work between local authorities and civil society by identifying priorities, defining strategies and deploying policies from a greater co-responsibility perspective.

Utrecht's work comprises this dimension, probably a result of a "top-bottom" approach. However, from our point of view, the case holds certain interest because it articulates

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190   The project is called *Joined-up governance: connecting critical rights* and sought to explore ways to develop a greater multilevel coordination in the implementation of the human rights. The results are available on the website: http://fra.europa.eu/en/project/2011/joined-governance-connecting-fundamental-rights.

191   Intervention by Hans Sakkers, Chief of the Department of Public International and Subsidies Affairs, in the framework of the meeting "Making a case for fundamental rights at local level", organized by the European Union Agency for Fundamental Rights, June 27th – 29, 2011, Vienna (Austria).

an innovative reflection from a political-institutional point of view for its transversal character, that is, its will to inspire the set of human rights municipal policies. This holistic approach is common at the heart of municipalities.

The right to the city in Serbia[192]

In Serbia, the right to the city is not yet a much-disseminated concept. It only exists in the margins of the academic production and in some social movements. In this country, the transition from socialism to capitalist democracy has not developed as fast as it did in other Eastern Europe countries. Therefore, the widespread opinion considers it necessary to deepen the economic liberalization process, even if, in reality, massive privatizations were already carried out. In fact, in the Parliament there are no groups with a left wing or green agenda. Moreover, in the public discourse, the demands regarding workers' rights or social housing are brushed off as remnants of the old era.

Regarding civil society, the dominant tendencies follow a similar paradigm and only a few (and often very local) groups have implemented actions aimed at promoting better urban development. Their work covers a wide spectrum of themes and processes: from defending green areas to creating social and cultural centres. In addition, although there has been a sporadic exchange of experiences between these groups, there is no political position that unites them.

The collective of architects and urban planners called "The Ministry of Space" (*Ministartvo prostora*), located in Belgrade, implemented, in early 2013, a mapping of citizen initiatives centred on spatial issues. Even though this is not an exhaustive work, the research provides a panoramic view of the urban

struggles that are currently happening in the country. Among the 99 documented initiatives, 82 dealt with environmental issues, and 17 refered to actions of resistance to development and re-qualification plans in course. The subcategories in which they were classified are the following:

- Creation or improvement of management for green areas and urban gardening: 12;
- Protection of green areas from privatization: 9;
- Improving the infrastructure for bicycle circulation: 13;
- Improving the public transportation system: 5;
- Improving the access to or the use of public spaces: 5
- Recovery or requalification of neglected public spaces: 22
- Resistance to the privatization of public spaces, demanding more participatory planning processes: 8;
- Creating or improving the management of social and cultural centres: 20.

The themes from this mapping derive from the citizen concern with the defence and the enjoyment of proximity spaces – issues that integrate the the right to the city agenda with other contexts. However, the absence of issues with potentially greater political impact, like improving the dramatic conditions under which homeless people live (Petrović and Timotijević̱a, 2013) or the need to regularize illegal housing (which today represents almost 20% of the housing stock), draws our attention)[193]. It also surprises us the silence regarding the conditions of the 593 settlements that house over 250,000 Roma people[194] or the rapid privatization of the old social housing stock on behalf of their tenants, transferring to this collective the problems deriving from the low quality of the

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192   This section has been developed with the inestimable collaboration the collective Serbian "The Ministry of Space". The text here presented is a partial adaptation of a case study prepared by him and subsequently reworked by the research coordinators with the objective to give it greater internal coherence to the overall narrative of the report. We have always tried to respect the core spirit, data and reflections of the collaborator.

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193   In absolute numbers, there are 500,000 residences, most of them built after the 1990 Soviet Union dissolution (European Commission for Europe, 2006).

194 Over 70% of these settlements are partially or totally illegal, 43% of which consisting of shacks (Jakšiđ and Bašiđ, 2005: 32).

constructions or the use of prefabricated materials, currently irreplaceable in case of deterioration because of the shutdown of the State companies that manufactured them.

Serbia, like other countries from the old Soviet Bloc, has become a country of owners[195]. In 2007, it was observed that 17% of families had problems paying the housing costs (RSO, 2007), a situation that has surely worsened with the 2008 world economic crisis. Several cases of evictions from informal settlements have also been registered in the country's bigger cities. Although it has generated some protests, the housing problematic does not appears in the public discourse nor has motivated the emergence of specific social movements until now

Other urban problems that have only sparked modest protests concern the processes of land appropriation or privatization of urban services happening under the State supervision through secret contracts with local businessman or investors from the United Arab Emirates.

Even though, in general, the protests emerged are not articulated, there were some cases in which political convergences were produced. For example, there is the opposition to the land cession in central Belgrade to Middle East investors, in order to build 1.85 million square meters of luxury housing and business places in the Danube riverbank. Or the dialogue between movements and associations from different parts of the country in June 2014 in the framework of the International Network of Urban Research and Action meeting - INURA[196]. The right to the city could be a unifying concept for all these struggles, currently fragile and fragmented. However, the concept needs to be better known in the country and to be disseminated in an understandable and adequate was considering the local context.

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195 While in 1991 public housing tenants amounted to 23%, in 2002 the number consisted of only 2% compared to 83% of individual owners and a 6% of families in shared houses with other families (Petrovið, 2004). For more information on the Serbian housing policy, see Government of the Republic of Serbia, 2009, 2011 and 2012.

196 See the audio recording of the INURA Conference held in Belgrade in 2014: https://archive.org/details/HousingAsRightAndCommodity.

Historical forms of communal property

In the debate on the right to the city, urban spaces and public buildings are increasingly thought of as "commons" (Salzano, 2009; Harvey, 2013), just like air, water or knowledge (Mattei, 2011; Dardot and Laval, 2014). The connection among these heterogeneous goods consists of their use being functional to the realization of fundamental rights. The examples include the autonomous communal forests or the pastures existing in different parts the world (Ostrom, 1990); the collective occupation of abandoned buildings and gardens that converged in the experience of the City Gardens or the Community Land Trusts developed in the United States and England to guarantee the access to housing for working classes without resorting to public social housing. In all the cases, there are forms of collective appropriation that privilege the actual use over the formal property of an asset (Grossi, 1977) and exceed the traditional limit between public and private property (Marella, 2012). In fact, when the commons are defended in urban areas, it is not only about the resistance to their privatization, but also to their management by governments that promote the cementification, gentrification and rupture of social ties for benefits of the private sector.

From the legal and institutional recognition perspective, the collective practices of spatial occupation challenge two pillars over which the western modernity paradigm has been settled over the last two centuries: the principle of individualism as a foundation of the right to private property and the principle of State's sovereignty as fundament for it being the most legitimate administrator and manager of public resources. Actually, none of them is a natural attribute of the human history. Both individual and public property have sprung in a recent and relatively short phase of the Western history. In Europe, their birth coincided, in the political sphere, with the long process of formation of modern Nation States (15th to 20th centuries) and, in legal terms, with the British regulations over land enclosure ruling in favour of British landowners (Enclosures Acts) and the continental laws of the 19th century (Halpérin, 2008). Before these changes and during many centuries, the history of property featured cooperatives and local forms of collective land usufruct, especially in rural areas.

Nowadays, social movements and academic studies have sprung in several countries that defending these alternatives to the private property and, in the debate on common goods and the reappropriation of public or communal territories, evokeing examples such as the Dutch polders or the Italian "civic uses" (*usi civici*)[197], whose rights, in some cases, are still protected by local regulations.

Since the Middle Ages, Netherlands developed forms of association for economic and productive land management like the construction of polders, marshy land reclaimed that, once dried, is dedicated to cultivation. When this system was implemented, the people living in the same polder were required to cooperate in order to ensure the maintenance of polders and pumping stations. Much of the literature considers that these historic and cultural backgrounds explain the cooperation and social participation tradition for solving collective problems existing in Netherlands[198].

"Civic uses" are recognized rights of use to the members of a certain community, generally acquired through formal mechanisms (although there are some cases of customary origin) (Grossi, 1981). These rights transcend the borders between public and private dichotomy since they are exercised by their holders individually (*uti uti et singuli cives*) on land belonging to the State, municipality or to a private citizen. Their content is very diverse, being frequently linked to the right to pasture, pick up firewood, leaves, herbs or corn cobs, as well as,

in some cases, the right to sow. The origin of civic uses can be traced back to the pre-Roman age, but only during the Middle Ages groups of families, parish organizations, neighbourhood networks and citizens associations created regulations (often written) to collectively manage the agricultural or forestry resources in the territory of their jurisdiction. There are historical examples of urban civic uses, like the right to use the streets, walls, parks and green areas (Marella, 2012).

In both cases, the origin is found in a same institutional matrix that has its roots in the medieval models of universitas and the legal system of local citizenship. Created in Europe, during the long period of absence of the Nation States, these forms of land management are based on ideas of active and participatory citizenship, of "body" or universitas. In a historical stage when political power was atomized, different social classes and groups (the nobility, the church and the autonomous cities) competed to control the "State". In this context, State-like institutions emerged with legal legitimacy to act on behalf of their members. And the right of assembly and the right to property was granted to them. This way, both legal and individual personalities are recognized, even if subject to belonging to one or more of these entities.

The central features of these experiences are the management of resources by a part of the people or users from a certain area and the use as a source of legitimacy for the appropriation practices over those resources. It should be highlighted, nonetheless, that this model of collective rights is not universal, that is, these are only granted to the members of the community. For those who just arrived, only after the course of a determined time of residence could culminate in the access to the same rights. Furthermore, none of the two cases is an example of solidary forms of land management. That is to say, community does not mean absence of conflict but the need to create and comply with the regulations that allow cooperation and coordination in the management of spaces and common rights, despite the conflict or using it to adjust and maintain these rules alive.

It is important to consider these critical elements when inserting the commons in the claim for the right to the city. As manifested in previous chapters, in contemporary cities, spaces

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197   The "civic uses" are rights recognized to the members of a community, generally acquired through formal mechanisms (although some cases have customary origin) (Grossi, 1981). These are rights that transcend the boundaries between public and private to be exercised by their holders individually (u*ti singuli et uti cives*) in land that belong to the State, the city or to a private citizen. Their content is very diverse, being frequently linked to the right to pasture, to pick up firewood, leaves, herbs or corn cobs, as well as, in some cases, the right to sow. The origin of the civic uses can be found in the pre-Roman age, but only during the Middle Age groups of families, parish organizations, neighbourhood networks and citizens associations created regulations (often written) to collectively manage the agricultural or forestry resources in the territory of their jurisdiction (Marella, 2012).

198   For more information, see www.fao.org/fileadmin/templates/giahs/PDF/Dutch-Polder-System_2010.pdf.

self-managed by citizens have proliferated, based on the idea of the predominance of the use value over the market value. However, it would be important to not incur in an excluding conception of access to resources and goods (as has historically occurred) thus not losing sight of the founding objective of the right to the city: transforming urban space in a resource collectively managed, at the disposal of all citizens.

Conclusions

The panorama here designed on the right to the city in Europe is only a small sample of the rich experiences and initiatives existing in a region highly different from a social, political, cultural and linguistic point of view. The mapping of each country and city analysed is not exhaustive, but it does illustrate well some of the main tendencies through which the concern over the current urbanization model in the region is being articulated.

A first reflection that emanates from the research is that the right to the city concept, despite being in France for over 40 years, has not historically emerged as a political banner for the European civil society. Probably, this results from different evolutions of past social struggles that have conveyed different interpretations and degrees of acceptance for the same concept. However, the cases of Istanbul and Hamburg show an interesting change in the tendency that could determine the beginning of future social mobilizations for the right to the city in other European countries. As exposed in previous chapters, the Turkish and German experiences show that the right to the city can emerge as an instrument for articulating urban struggles, thus overcoming the fragmentation and disconnection often existing among social actors. Nevertheless, they are very recent articulations whose continuity over time is yet uncertain. Furthermore, they have in common the use of the term "right to the city" just as a political slogan that seeks to resist the current development model, without also translating it into the formulation of specific proposals founded in other paradigms. Surely, exchanging experiences with social movements from elsewhere, places where the right to the city has experienced a higher conceptual and legal development (like Latin America), could greatly enrich the strategy of the Turkish and German movements and, therefore, the European movements.

Interestingly, a greater proactive richness is noted in the remaining analysed cases, which do not resort to the right to the city political banner. In the Spanish (PAH) as well as in the Italian or the British experiences, the analysed civil society groups have been characterized by formulating and proposing alternatives for the housing issue (Spain), for the management of commons (Italy) or for the hegemonic private property regime through the CLT alternative (United Kingdom in general and London in particular). Despite the fact that, in none of these cases, the right to the city is the struggle's social motor, they share some axis with it: the right to housing in the first case and the recovery of collective rights in the other two.

Moreover, the Spanish and Italian contexts provide other interesting analysis: local governments compromise to incorporate, in their political management, certain principles related to the right to the city (the safeguarding of the human rights in the city in Spain or the defence of commons in Italy) and often encounter difficulties to go beyond their political statements of good intentions. The Spanish case is highly eloquent in this sense and, within it, the example of the province of Barcelona: despite a very significant number of local governments signatories to the European Charter for the Safeguarding of the Human Rights in the City and despite having the methodological instruments and the technical consultation to implement it; generally the signatory cities have implemented few political actions (which often are very sectoral and fragmentary) to deploy the charter's content. In the neighbouring country, including the city of Naples, where all the necessary elements seemed to converge so the statements of intentions would constitute the anteroom of an effective transformation of the municipal policy, this implementation has been caught in profound contradictions and half-baked innovations with more symbolic than real value.

Yet, we cannot ignore that Europe has been a pioneer in defending the "human rights in the city" idea and local governments had a significant weight in its internationalization through the movements of cities for human rights and their determination in the scope of municipal diplomacy and development cooperation. This concept comprises the obligation of the municipal administrations to respect, defend and guarantee the human rights (civil, political, economic, social, cultural and environmental) in the entire urban fabric located under their political jurisdiction, as well as in their relations of cooperation with other social, business or administrative entities. With the "human rights in the city" concept, we transgress the predominant State-centric human rights vision,

according to which States are required to comply and make others comply with the human rights obligations. Ultimately, this concept defendes that their effective materialization depends on all government levels, specially including the local level.

However, it is necessary to ensure "the rights of the cities", that is, a bigger transfer of political competences and financial means to local governments so they can have more autonomy, assume more responsibilities and strengthen their capacity of acting. Without a greater political, administrative and financial decentralization of the States, the cities willing to fundament their policies on new paradigms frequently cannot overcome certain limits imposed by economic and political superstructures.

Considering the experiences analysed in this research, Europe has delved in these two components: the "human rights in the city" discourse and the guarantee of the "rights of the cities" through decentralization processes that took place in most countries in the region. However, the "right to the city" provides a dimension not contemplated yet by any of the two previous concepts: the response to the current urban development model following a neoliberal logic that makes the urban land commodification , the privatization of public spaces, an urban planning for the economic interests, the gentrification of the most vulnerable groups and the canalization of public resources to build great mobility infrastructure or to celebrate mega-events, all possible. This happens in detriment of developing decentralized cities that guarantee job opportunities, health, education, culture, leisure and local development, among others, in all neighbourhoods.

Thus, while the previous claims (human rights in the city and rights of the city) supposedly advance in the direction proposed by the right to the city, they are not susceptible to achieve the same goal. The right to the city provides a human rights analysis based on an urban perspective, that is, it emphasises the spatial dimension of the problems manifested in the cities. In this regard, it draws attention to how socio-spatial polarizations actively interact with and aggravate the problems generated by an unequal income distribution and land value tax, generating vicious circles of segregation, exclusion and social impermeability (Soja, 2010).

According to the concept's first theoretical formulations, the right to the city is the "right to urban life" (Lefebvre, 2009 [1968]: 108), understanding the urban issue not only as the material city but also as the immaterial city, built through simultaneity, meetings, senses, spontaneous exchanges and relations between people (Lefebvre, 2009 [1968]: 46-47). Thus, it is required a city model that guarantees not only public spaces, proximity-based services, mixed neighbourhoods or decentralized decent employment opportunities, but that also stimulates sociability, social and cultural expressions, and the valorisation of the multiple identities that coexist in the urban environment. Nevertheless, the postmodern cities, standardized, with great financial centres and residential areas, big avenues and high skyscrapers, with mass transportation services and great distances to go through, promote individualism, limit the living conditions and make the kind of sociability defended by the right to the city impossible. These are dimensions not comprised by the two more comprehensive approaches of "human rights in the city" and "rights of the cities" in Europe.

However, the European experiences on behalf of the right to the city featuring the civil society have the additional benefit of bringing transformative elements in this sense. In Spain, the PAH has managed to convert an apparently individual issue (evictions) in a collective struggle. In Italy, the commons challenge the hegemonic model of private property and individual rights, while simultaneously transgress the linear time conception of Western modernity through the trans-temporal concern over future generations and sustainability. The experiences of community land trust in the United Kingdom and some forms of collective property still existing in several villages rescue the idea of land social function. Istanbul represents the struggle for the preservation of public spaces that articulates the city's historical memory and holds certain social identities. Finally, Hamburg symbolizes the resistance against urban renewal initiatives determined by economic interests to the detriment of the most vulnerable and unprotected groups. We see, therefore, that in each of these experiences some of the orienting elements of the right to the city appear.

Willing to strengthen these elements and to stimulate this kind of social struggles and alternative policies in the region, allow us to end this reflection with some recommendations:

- Promoting the exchange of experiences between Europe and regions with greater overview on the right to the city (through meetings or exchange programs)

- Ensuring permanent contact and communication between them (by articulating a global platform that comprises a constant dynamics structure).

- Broadening the current understanding of the right to the city with elements of social struggles from other parts of the world, to build a concept that sufficiently reflects the diversity of experiences and simultaneously allows them to feel represented by it.

- Stimulating local experimentations of instruments that might help giving effectiveness to the right to the city.

- At the same time, working for a regulatory recognition of the principles on which the materialization of the right to the city depend (not only on local and national levels, but also in the scope of institutions like the European Union and the Council of Europe).

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GENERAL

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Congress of Local and Regional Authorities: www.coe.int/t/congress

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European Parliament: http://www.europarl.europa.eu/portal/en

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GERMANY

Aliance for Income: www.mietenbuendnis.de

Campaign "We all stay": www.wirbleibenalle.org

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Right to the City Network, Leipzig: www.leipzig-stadt-fueralle.de

Right to the City Network, Freiburg: www.rechtauf-stadt-freiburg.de

Right to the City Network, Frankfurt: http://rechtauf-stadtfrankfurt.blogsport.de

Right to the City Network, Muenster: http://rechtauf-stadtmuenster.blogsport.de

Right to the City Network, Postdam: www.rechtauf-stadt-potsdam.de

SPAIN

City of Barcelona: www.bcn.cat

Council of Civil Rights: http://w110.bcn.cat/portal/site/DretsCivils

Council of Mallorca: www.conselldemallorca.net

Majorca Cities and Towns Network for Human Rights: http://www.conselldemallorca.net/?id_section=4465&id_parent=492.

Province (*Diputaciò*) of Barcelona: www.diba.cat

Towns and Cities Network for Human Rights: http://www.diba.cat/es/web/acciocomunitariaparticipacio/xarxa-de-pobles-i-ciutats-pels-drets-humans

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Platform for People Affected by Mortgages (PAH): http://afectadosporlahipoteca.com Campaign "PAH Social Work": http://afectadosporlahipoteca.com/category/propuestas-pah/obra_social_la_pah/

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THE NETHERLANDS

Utrecht City Council: www.utrecht.nl

Municipal blog "Human Rights in Utrecht": http://hu-manrightsutrecht.blogspot.nl/

ITALY

Association of Virtuous City Councils: http://www.comunivirtuosi.org

Association Zone Onlus: www.zoneassociation.org

Naples City Council: http://www.comune.napoli.it

Public Agency "Naples Water Common Good": www.arin.na.it

Naples Laboratory for the Commons:

www.comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/16783

Social currency "Napo": www.napo.comune.napoli.it

National Consultation on Communal Property: http://consultanazionale.blogspot.com.es

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Forum of Water Movements: www.acquabenecomune.org

Participation Law, Toscana Region: www.regione.tos-cana.it/-/legge-sulla-partecipazione

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New Cinema Palace (Roma): www.nuovocinemapalazzo.it

Ventaglieri Park (Naples):

www.parcosocialeventaglieri.it/pagine/storia/regola-mento.htm

Project "The legal system of the commons", University of Perugia:

www.comunemente.unipg.it

Collection of signatures against water privatization: www.siacquapubblica.it

Regulation for the collaboration among citizens and the administration for the caring and regenerating of urban common goods: http://www.labsus.org/scarica-regolamento

Network of Commissions for the Common Goods: www.benicomuni.org.

Zero Km Democracy Network: www.democraziakmzero.org

New Municipality Network: http://nuovomunicipio.net

Territorialists Society: www.societadeiterritorialisti.it

Valle Occupatto Theatre (Roma): www.teatrovalleoccupato.it

Video "Occupying the commons": http://www.youtube.com/watch?v=aAi4wwirTYU Tenants Union: http://www.unioneinquilini.it/

Common Good University: http://universitadelbenecomune.org

THE UNITED KINGDOM

The People's Assembly Against Austerity: www.thepeoplesassembly.org.uk

Critical Mass Campaign: www.criticalmassradio.co.uk and www.criticalmasslondon.org.uk

Land Value Taxation Campaign: www.landvaluetax.org

Labour Land Campaign: http://labourland.org

Reclaim the Night Campaign: www.reclaimthenight.co.uk

University College London: http://www.ucl.ac.uk/

Development Planning Unit: http://www.bartlett.ucl.ac.uk/dpu

Findhorn Ecovillage: http://www.ecovillagefindhorn.com

London School of Economics: http://www.lse.ac.uk/home.aspx

LSE Cities: http://www.lse.ac.uk/LSECities/home.aspx

Bourneville Village Trust: https://www.bvt.org.uk

East London Community Land Trust: http://www.eastlondonclt.co.uk

Lancaster Cohousing Project: http://www.lancaster-cohousing.org.uk

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Radical Routes Co-operatives Network: http://www.radicalroutes.org.uk

Rootstock Society: http://www.rootstock.org.uk

Red Pepper Newspaper: http://www.redpepper.co.ug/

New Left Review: http://newleftreview.es/

Rightmove (properties for sale and rent): http://www.rightmove.co.uk/

Saltaire Village: http://www.saltairevillage.info/Saltaire_World_Heritage_Site_1028.html

TURKEY

Calendar for Urban Resistance: www.kentdireni-stakvimi.org

Capul.tv (alternative media): http://capul.tv/

Happy City: www.mutlukent.wordpress.com

Justice in the City: www.kentteadalet.org

Mega Istanbul: www.megaprojeleristanbul.com

Architects Platform: www.arkitera.com

Taksim Platform: www.taksimplatformu.com

Taksim Platform Constituents: http://taksimdayanisma.org/bilesenler?lang=en

International Solidarity Platform "Everywhere Taksim": www.everywheretaksim.net

Radikal Newspaper: www.radikal.com.tr

Reclaim Istanbul: www.reclaimistanbul.com

Bianet Independent Communication Network: www.bianet.org

Eviction Networks: www.mulksuzlestirme.org

Environmental Resistance: www.direncevre.org

Solidarity to Taksim: www.taksimdayanisma.org

We are Tenants: www.kiraciyiz.biz

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Ministry of Space (Ministarstvo Prostora) is a Serbian collective composed by activists, artists, architects and citizens. Its aim is to articulate research and action platforms regarding urban development, urban resources management and democratization. Thus, they conduct monitoring, observation analysis, debate and action tasks in Belgrade and other Serbian cities.

South Africa and the Right to the City: exploring the potential for, and limits to, the realisation of progressive urban rights

Adoné Kitching, Scott Drimie, Mirjam van Donk

Introduction

Inequality remains entrenched in South African cities. A disproportionately large part of the population lives in conditions that routinely undermine residents' right to adequate housing, to basic services, and to participation in the making and management of cities. While the country boasts some of the most progressive policy measures, these struggle to find articulation in the everyday lives of the urban poor. In South Africa, the spatial dimensions of citizenship is often neglected as local governments are unable to produce environments within which urban residents can enjoy the rights, and fulfill the duties, enshrined in the Constitution. The Right to the City discourse can serve as a tool with which to systematically address the inequality that remains so prevalent in the country, and as a mechanism for directing the energies of local institutions. Although the notion of the Right to the City – as set out in the World Charter for the Right to the City (2005) – has not been formally espoused in South Africa, the following case study considers the ways in which aspects of the charter have manifested here. These manifestations indicate both the extent to which the Right to the City is applicable in the country, and the potential challenges that the particularities of the South African context may pose to its adoption and implementation.

In essence, this study argues that the need for transformation in South Africa can be invigorated and supported by the notion of the Right to the City. It is, however, unlikely that the World Charter will be taken up by government and in policy. The language will serve rather to frame local urban struggles and the work of civil society actors as they hold the state accountable to existing legislation that resonates with elements of it. The potential for the concept to strengthen social mobilization is particularly important.

The study firstly examines the policy environment that guides urban management strategies and development interventions in the country, and considers the correlation between South Africa's legislation and the provisions made in the World Charter. Secondly we unpack the specific forms in which the Right to the City has appeared in South Africa, and give particular attention to the Right to the City as a legal right, as a rallying cry, and as a development imperative. Finally, the study investigates some of the barriers that hinder further uptake of the principles and provisions of the World Charter in South Africa. The analysis of the Right to the City in South Africa is used to conclude that there is great potential for the World Charter to strengthen urban development and management practices in the country. In foregrounding the importance of community involvement in the making of just and sustainable cities, the notion of the Right to the City can here serve as impetus for local struggles, as well as a coherent measure to guide institutional approaches to issues of urban land, housing and basic services. For this potential to come to fruition, however, it is critical that strong civil society actors promote and advocate for institutional shifts and build the capacity of urban residents to realise full urban citizenship.

South African Realities: urban inequality and the need for institutional and attitudinal shifts

Cities in South Africa continue to operate in ways that perpetuate structural inequality and spatial segregation. The legacy of apartheid planning remains visible in the everyday working of the country's urban centres. As Berrisford notes, 'each town or city in South Africa reflec ts not only an unequal distribution of infrastructure, amenities and accessibility, but the distances between the places in which the poor and the well off live exacerbate that inequality' (2011: 249). South African cities are therefore divided cities, characterised by pronounced disparities. Despite significant shifts in policy, efforts aimed at reversing these planning trends have failed to effect marked change in the country. As such, current patterns of urban growth continue to mimic those that were entrenched under the rule of the apartheid regime.

This is not to say that inequality is an urban phenomenon alone. According to recent census data the country has a population of 51 770560 people, 29.8% of whom are unemployed (*apud* Statistics South Africa, 2012). Furthermore it is estimated that 23 million people live under the upper bound poverty level ($58.53 per capita per month in 2011), while roughly 10 million people live under the food poverty line ($30.28 per capita per month in 2011) (Statistics South Africa 2014). According to the World Bank, the country's GINI coefficient ranks amongst the highest in the world (*apud* The World Bank, 2014). It is clear then that the unequal distribution of wealth and access is not only a feature of South Africa's urban areas, but rather of the nation itself. It is significant to note here however is that cities give rise to very particular manifestations of inequality.

South African cities have, for instance, seen the proliferation of informal settlements constructed on their outskirts. As the urban poor are continuously relegated to the margins, these settlements increase in size and number. Today there are over 2700 informal settlements, with the bulk of these concentrated in the country's metropolitan municipalities (*apud* HAD,

2012). In 2010 the agreement between the Minister of Human Settlements and the President of the Republic defined informal settlements using seven key characteristics. These include illegality and informality, inappropriate locations, restricted public and private sector investment, poverty and vulnerability, and social stress (*apud* Department of Human Settlements, 2010). In these settlements, residents struggle to access basic service and amenities as well as livelihood opportunities. As such they are compelled to travel long, and costly, distances to the city centre which remains the locus of income-generating activity. The sustained growth of informal settlements illustrates that inequality, as well as its inverse, is intrinsically tied to the use of space.

Furthermore, the urban poor are routinely excluded from those processes that have an immense impact on their lives. In 2014, the newly appointed Minister of Human Settlements' budget speech focused primarily on the delivery of state subsidised housing as a strategy for addressing rampant inequality. But such a strategy positions the state as the sole provider of shelter and services. Communities therefore occupy the sidelines of decision-making processes, as they are unable to participate in the creation of their own neighbourhoods and settlements. Ward committees, that were intended to serve as institutional mechanisms for direct and meaningful community participation, often fall victim to corruption, political manipulation and elite capture. Moreover, ward committees function 'above' neighbourhood level, and therefore neglect the intricacies of issues on the ground. They are also, however, unable to adequately connect various projects and imperatives at a broader scale (*apud* Isandla Institute, 2013).

In South African cities then, the urban poor are not only deprived of access to the material necessities of life. They are also deprived of the means for effecting significant change. Conditions of poverty and ubiquitous informality, which often lie beyond the reach of meaningful state engagement, severely limit the capacity of residents to embody the progressive rights associated with citizenship in South Africa. The realities set out above therefore indicate the need for new forms of urban management, and an approach to cities that recognises the central role that communities play in making just and equal

living environments. Here, the language of the Right to the City is useful then for identifying current strategies that already work towards the realisation of progressive rights, as well as those alternative policies and actions that could reinvigorate the country's commitment to combating inequality.

Lefebvre's notion of the Right to the City, first put forward in 1968, argues that the *use* value of the urban environment, particularly of scarce commodities such as urban land and communal space, is increasingly being overwhelmed by its *exchange* value, thereby fracturing and eroding the social life of urban centres. He sought to sketch a framework for urban social struggles that could extend beyond traditional concepts such as class struggle. According to Purcell then, Lefebvre's conception of the Right to the City is determined by two core aspects namely participation and appropriation (*apud* 2003: 102-103). Here, participation refers to the right of inhabitants to take a central role in decision-making processes surrounding the production of urban space at any scale. Appropriation suggests that urban space should be produced in ways that enable its full and complete use by inhabitants in their everyday lives.

The Right to the City, therefore, is a collective right that can only be realised through collective action, and it demands solidarity and new forms of alliances between different stakeholder groups within society (*apud* Horlitz and Vogelpohl, 2009).This discourse invokes an image of the city as something that is malleable, something that is always in the making (*apud* Harvey, 2008; Lefebvre, 1996). It promulgates the inclusion of the urban poor in processes of city making and management as a means to ensure justice and equality.

Lefebvre has often been critiqued for the somewhat undefined and utopian nature of his idea (*apud* Purcell, 2003). With the formulation of the World Charter for the Right to the City in 2005 however, the Right to the City gained significant substance and coherence. As Ortiz notes, the charter was created to 'fight against all the causes and manifestations of exclusion: economic, social, territorial, cultural, political, and psychological. It is proposed as a social response, as counterpoint to city-as-merchandise, and as expression of collective interest' (2006: 100). In setting out a clear framework for action, the World Charter provides practical guidance to governance structures tasked with managing urban centres.

In South Africa the Right to the City can therefore either serve as a policy measure that guides the state's formulation and implementation of urban development strategies, or as a rallying cry for social movements and civil society organisations. In either respect, the Right to the City has the potential to act as a driving force for much needed urban transformation.

Methodology

The work presented here was produced through a review of relevant literature and, primarily, through engagements with key experts in South Africa's urban sector. The perspectives of these experts offered multidisciplinary insight into the workings of urban development in the country, and allowed for an understanding of the most prevalent issues faced here. In this regard we acknowledge the contributions of Geci Karuri Sebina, Kate Tissington, Marie Huchzermeyer, Steve Kahanovits, Tristan Görgens and Walter Fieuw.

Each expert was asked to produce a brief input that reflected on the World Charter for the Right to the City and its applicability in South Africa. They were also asked to respond to more pointed questions related directly to their particular field of work. Expert inputs were then synthesised. The key themes that emerged from their perspectives have served to structure and inform the following analysis. While this case study is by no means exhaustive in its investigation of the Right to the City in South Africa, it does serve to indicate key opportunities and challenge s for its adoption and implementation.

Progressive Policy and Legislation: South Africa's institutional commitment to justice and equality

South Africa's Constitution, which came into effect in 1997, is thought to be one of the most progressive constitutions in the world (*apud* Sichone 2003). The Bill of Rights, set out in Chapter 2 of the Constitution, is largely concerned with ensuring conditions under which South African citizens can enjoy justice and equality. As such, the Bill of Rights has been critical not only for reversing the gross inequalities entrenched under the administration of the apartheid government, but also for giving clear direction as to the role of the state in guaranteeing the full realisation of citizens' rights. Many of the provisions set out in the World Charter for the Right to the City (2005) are therefore not unfamiliar in the South African context. *Table 1* below sets out the various sections of the Constitution of South Africa that correspond with particular articles of the World Charter for the Right to the City. Like the World Charter, the Bill of Rights guards against discrimination of any kind. In the World Charter however, citizens are considered to be 'all persons who inhabit a city, whether permanently or transitionally' (2005: 3), while enjoyment of the rights set out in the South Africa's Constitution is limited to those who can claim a formal connection to the nation.

Both these documents make provision for socio-economic rights such as access to basic services and to housing. In terms of land use management the Constitution, as well as the World Charter, encourages the use of public land for social development. *Table 1* however also indicates the critical junctures at which the provisions made in each of these documents diverge. Firstly, the World Charter for the Right to the City makes explicit reference to the importance of the social function of land. Such an understanding of urban land moves away from individual property rights and from the commercial value of land, towards a recognition of the processes that contribute to making urban space meaningful. South Africa's Constitution, on the other hand, remains firmly grounded in individual rights and responsibilities. As such,

the Constitution neglects collective rights. Furthermore, the World Charter for the Right to the City promulgates the right to work – an important provision that is not found in South African legislation.

Other policy measures also indicate the country's commitment to justice and equality. In 2009, the *National Housing Code* encouraged the uptake of informal settlement upgrading as a strategy for creating adequate living environments in the country. This strategy relies heavily on community participation. As the document notes then, '[it] is of the utmost importance that the community is involved in all aspects of the settlement upgrading process (National Housing Code 2009). Participatory upgrading therefore draws communities into those processes through which the city is made, and as such allows residents to claim their rights as urban citizens (see section 5.3 below). So too the agreement between the former Minister of Human Settlements and the Presidency, ratified in 2010, promulgated participatory development interventions. The document suggests that an 'effective improvement process is built on close community participation and cooperation aiming to strengthen livelihoods strategies of the poor' (Department of Human Settlements, 2010: 42). In South Africa, agreements such as Outcome 8 are crucial for determining the development trajectory of the country over a period of five years. The focus on participation and community involvement found here therefore indicates a recognition of important role that urban residents have to play in the making and management of their living environments. Finally, the *National Development Plan: Vision for 2030* was created as a strategic policy measure that would guide the country's development endeavours. The document suggests that poverty and inequality can be significantly reduced by 2030, and sets out a number of key areas of intervention to which the state intends to give emphasis (National Planning Commission 2011).

The documents briefly mentioned above illustrate the prevalence of progressive policy in South Africa. On paper at least, the state is committed to addressing conditions of stark inequality and has put in place robust measures to ensure citizens' continuous involvement in processes of development and governance. Despite its strong focus on equality however, legislation and policy in South Africa has as of yet failed to adequately address issues of urbanisation. The state remains ambiguous about the development of urban centers, and has focused its attention on rural interventions instead (*apud* Görgens, 2014: personal correspondence). This ambiguity is perhaps most notable in the lack of coherent policies that would guide strategic urban development. In August 2014, a draft of the South Africa's new Integrated Urban Development Framework will be presented for public comment. Although the framework is welcome, the timing of its formulation indicates the state's apprehension towards the urban.

It is clear then that some aspects of the Right to the City, and particularly of the World Charter for the Right to the City, hold sway in the context of South African legislation and policy. Significant differences however suggest that the South African state is as of yet unable to account for collective rights, and ill-equipped for engaging with the city as the arena of citizenship.

Table 1: Comparison between the Constitution of South Africa (1996) and the World Charter for the Right to the City

Constitution of South Africa 1996	World Charter on the Right to the City 2005
Section 9 – Equality 1. Everyone is equal before the law and has the right to equal protection and benefit of the law. 2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, the legislative and other measures designed to protect or advance persons, or categories of persons, disadvantages by unfair discrimination may be taken. 3. The state may not unfairly discriminate directly or indirectly against anyone on one or more ground including race, gender, sex, pregnancy, marital status, ethnic or social groups, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. 4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination. 5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.	**Article I – The Right to the City** 1. All persons have the Right to the City free of discrimination based on gender, age, health status, income, nationality, ethnicity, migratory condition, or political, religious or sexual orientation, and to preserve cultural memory and identity in conformity with the principles and norms established in this Charter.
Section 17 – Assembly, demonstration, picket and petition Everyone has the right, peacefully and unarmed, to assemble, demonstrate, to picket and to present petitions.	**Article IX – Right to Associate, Gather, Manifest and to Democratic Use of Urban Space** All persons have the right to associate, meet, and manifest themselves. Cities should provide and guarantee public spaces for this effect.
Section 24 – Environment Everyone has the right – a) to an environment that is not harmful to their health or well-bring; and b) to have the environment protected, for the benefit or present and future generations, through reasonable legislative and other measures that – iii) prevent pollution and ecological degradation; iv) promote conservation; and v) secure ecologically sustainable development and use of natural re-sources while promoting justifiable economic and social development.	**Article V – Equitable and Sustainable Urban Development** 1. Cities should develop urban-environmental planning, regulation, and management that guarantee equilibrium between urban development and protection of natural, historic, architectural, cultural and artistic heritage; that impedes segregation and territorial exclusion; that prioritises social production of habitat, and that guarantees the social function of the city and property. For that purpose, cities should adopt measures that foster and integrated and equitable city. 2. City planning and the sectoral programmes and projects should integrate the theme of or urban security as an attribute of the public space.

Section 25 – Property	Article II, Section 2 – Social Function of the City and of Urban Property

1. No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
2. Property may be expropriated only in terms of the law of general application –
  a) for a public purpose or in the public interest; and
  b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
3. The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including –
  a) the current use of the property;
  b) the history of the acquisition of the property;
  c) the market value of the property;
  d) the extent of state investment and subsidy in the acquisition and beneficial capital improvement of property; and
  e) the purpose of the expropriation.
4. For the purpose of this section-
  a) the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's neutral resources; and
  b) property is not limited to land.
5. The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
6. A person of community whose tenure of land is insecure as a result of past racially discriminatory laws or practices is entitled to, to the extent provided by an Act of Parliament, either to tenure which is legally secure of comparable redress.
7. A person of community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled to, to the extent provided by an Act of Parliament, either to restitution or to equitable redress.
8. No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to address the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).
9. Parliament must enact the legislation referred to in subsection (6).
	1. As its primary purpose, the city should exercise a social function, guaranteeing for all its inhabitants full usufruct of the resources offered by the city. In other words, the city must assume the realisation of projects of investment to the benefit of the urban community as a whole, within criteria of distributive equity, economic complementarity, respect for culture, and ecological sustainability, to guarantee the well-being of all its inhabitants, in harmony with nature, for the present and for future generations.
	2. The public and private spaces and goods of the city and its citizens should be used prioritising social, cultural, and environmental interests. All the citizens have the right to participate in the ownership of the urban territory within democratic parameters, with social justice and within sustainable environmentally balanced uses of urban space and soil, in conditions of security and gender equity.
	3. Cities should promulgate adequate legislation and establish mechanisms and sanctions designed to guarantee full advantage of urban soil and public and private properties which are deserted, unused, underused or unoccupied, for fulfilment of the social function of land.
	4. In the formulation and implementation of urban policies, the collective social and cultural interests should prevail above individual property rights and speculative interests.
	5. Cities should inhibit real estate speculation through adoption of urban norms for just distribution of the burdens and benefits generated by the urbanisation process, and the adaptation of economic, tributary, financial, and public expenditure policy instruments to the objectives of equitable and sustainable urban development. the extraordinary income (appreciation) generated by public investment – currently captured by real estate and private sector businesses – should be redirected in favour of social programmes that guarantee the right to housing and dignified life for the sectors living in precarious conditions and risk situations.

Section 26 – Housing	Article XIV – Right to Housing
1. Everyone has the right to have access to adequate housing. 2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive legislation of this right. 3. No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.	1. Cities, within the framework of respective competences, should adopt measures to guarantee for all citizens that housing expenses be accessible in accordance with incomes, that I fulfil adequate living conditions, that it be adequately located, and that it adapt to the cultural and ethnic characteristics of those who inhabit it. 2. Cities should facilitate adequate housing supply and urban facilities for all citizens and establish subsidy and finance programmes for land and housing acquisition, tenure regularisation, and improvement of precarious neighbourhoods and informal settlements. 3. Cities should guarantee priority for vulnerable groups in housing laws, policies, and programmes, and assure finance and services specifically designated for children and the elderly. 4. Cities should include women in the possession and ownership documents issued and registered, regardless of their civil status, in all public policies developed related to land and housing distribution and titles. 5. Cities should promote the installation of shelters and social rental housing for female victims of domestic violence. 6. All homeless citizens, individually, as couples, or as family groups, have the right to demand of the authorities effective implementation of their right to adequate housing in a progressive manner and through application of all available resources. Shelters and bed-and-breakfast facilities may be adopted as provisional emergency measures, without obviating the obligation to provide definitive housing solutions. 7. All persons have the right to security of housing tenure through legal instruments that guarantee it, and the right to protection from eviction, expropriation, or forced or arbitrary displacement. Cities should protect tenants from profiteering and from arbitrary evictions, regulating housing rents in accordance with General Comment no. 7 of the United Nations Committee on Economic, Social and Cultural Rights. 8. Cities should recognise as direct interlocutors the social organisations and movements that defend and work to fulfil the rights linked to the right to housing contained in this Chapter. Very special attention, promotion and support should be directed to organisations of vulnerable and excluded persons, guaranteeing in all cases preservation of their autonomy. 9. This article is applicable to all persons, including families, groups, untitled occupants, the homeless, and those persons or groups whose housing circumstances vary, including in particular nomads, travellers, and romanies.

Section 27 – Health care, food, water and social security	Article XII – Right to Water and to Access and Supply of Domestic and Urban Public Services

1. Everyone has the right to have access to –
   a) health care and services, including reproductive health care;
   b) sufficient food and water; and
   c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
2. the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
3. No one may be refused emergency medical treatment.
	1. Cities should guarantee for all their citizens permanent access to public services of potable water, sanitation, waste removal, energy and telecommunications services, and facilitates for health care, education, basic goods supply, and recreation, in co-responsibility with other public or private bodies, in accordance with the legal framework established in international rights by each country.
	2. In regard to public services, cities should guarantee accessible social fees and adequate service for all persons including vulnerable persons of groups – and the unemployed – even in the case of privatisation of public services predating adoption of this Charter.
	3. Cities should commit to guarantee that public services depend on the administrative level closest to the population, with citizen participation in their management and fiscal oversight. These services should remain under a legal regimen as public goods, impeding privatisation.
	4. Cities should establish systems of social control over the quality of services provided by public or private entities, in particular relative to quality control, cost determination, and attention to the public.

Manifestations of the Right to the City in South Africa

The Right to the City as a Legal Right

There are two particular cases in South Africa's recent history that illustrates the potential of the country's Bill of Rights to advance aspects of the Right to the City. While the Constitution makes provision for the right to access to adequate housing under Section 26, the cases of both Grootboom in 2001 and Olivia Road in 2008 were instrumental in giving shape and substance to the law and setting precedents for future action. In both instances the court rulings stipulated that it was the obligation of the state to provide emergency housing to evicted residents in accordance with Section 26 of the Constitution. In the Olivia Road case in particular, the court ruling demanded that the City of Johannesburg instigate and participate in a process of, what they referred to as, 'engagement'. In both instances then, residents used the Bill of Rights as a tool for compelling the state to take responsibility for the provision of basic rights. These cases therefore had important implications for the enforcement of socio-economic rights in the country (*apud* Huchzermeyer, 2003: 88).

The Grootboom case first came in front of the Cape High Court in 1999 after 900 residents were evicted from privately owned land they had occupied. The residents, who had previously inhabited the Wallacedene settlement, were left destitute. Although residents were consequently able to put together makeshift forms of shelter, these were not suited to protect children from the elements. The applicants therefore went to court to claim their right to access to adequate housing as stipulated in the Constitution. According to Huchzermeyer, the court considered whether state was responsible, beyond the implementation of a rational housing programme, for providing adequate shelter to residents living in conditions such as those faced by evictees in the Grootboom case (*apud* 2003: 86). Since such a 'rational housing programme' had been instigated in the area, provincial and national governments argued that they had fulfilled their obligations to the community. The High

Court ruling therefore denied residents' claim in terms of right to housing. In accordance with Section 28 (1)(c) of the Constitution, which stipulates that a child has a qualified right to basic shelter, however, the court made it the responsibility of the state to provide emergency housing to children and their parents.

De Vos notes that the residents in the Grootboom case 'came to court to challenge the failure by the state to take any action to assist them while it continued to implement a housing programme that effectively ignored the housing plight of the most vulnerable sections of society' (2001: 260). While the Cape High Court was less inclined to intervene in the interpretation the Constitution and in determining the state's role in realising the rights set out Section 26, the Constitutional Court took serious issue with the needs of the desperate and vulnerable. When the municipal government appealed the ruling of the Cape High Court, the Grootboom case came in front of the Constitutional Court in 2001. The analysis offered by the attorney for the amici curiae suggested that the housing programme initiated by the state did not address the most immediate needs of those living in desperate conditions. It also held that the state was responsible for the fulfillment of a set of minimum core obligations (*apud* Huchzermeyer, 2003: 87). The ruling on the Constitutional Court therefore demanded the extension of the housing programme so that it would also offer relief to those living in crisis.

The Grootboom case served as a point of reference for a similar case tried in the Constitutional Court in 2008. During the Olivia Road case, over 300 residents in Johannesburg's inner city faced eviction as the City targeted six properties as part of a broader regeneration programme (*apud* Ray, 2008). Residents opposed the City's application to evict them from their homes, and claimed that they state had failed to provide for their rights under Section 26 of the Constitution. Tissington notes that the City's focus on regeneration translated into a greater concern with buildings than with the people inhabiting them (*apud* 2012 personal correspondence). While the ruling of the Johannesburg High Court, and later that of the Supreme Court of Appeals, was concerned with the nature of the eviction and with issues related to Section 26, the Constitutional Court issued an order that compelled parties to participate

in a process of what it termed 'engagement' (*apud* Ray, 2008; Tissington, 2012 personal correspondence). Through engagement the City would have to negotiate with residents to reach mutually beneficial terms of agreement. While the substantive aspects of this process were to be determined by the state, they were compelled by law to report on their engagements and the outcome thereof.

One month after the court order had been issued, the City and occupants of Olivia Road presented their settlement to the Constitutional Court. This settlement stipulated that the City would refurbish buildings in the inner city prior to eviction to ensure that residents would have access to both housing and basic services once removed from their original dwellings. Furthermore, the settlement noted that the City would consult with residents about more permanent housing solutions (Ray, 2008). The Constitutional Court's final order gave significant emphasis to the process through which the settlement had been made. The Olivia Road case was therefore influential in formalising engagement as a requirement for future negotiations between urban residents and municipal governments. The order also referred to the critical role that civil society organisation could play in facilitating future processes of engagement (*apud* Ray, 2008).

In relation to the Right to the City then, the Grootboom and Olivia Road cases illustrate the potential of the Bill of Rights to advance the socio-economic rights of urban residents in South Africa. Through legal action communities begin to give substance to the Constitution, and work to define their relationship to the state.

The Right to the City as a Rallying Cry

In addition to its manifestation as a legal right, the Right to the City also serves as a powerful rallying cry that gives structure and coherence to local struggles. As Junior suggests, the Right to the City 'arises as a response to the panorama of social inequality, considering the duality experienced in the same city: the city of the rich and the city of the poor; the legal city and the illegal city, as well as the exclusion of the majority

of the city's inhabitants determined by the logic of spatial segregation' (2008). In the South African context then, where heightened inequality is the order of the day, the Right to the City offers a slogan that captures the urban poor's fight for recognition. While its uptake is limited as of yet, the following section examines the potential of the Right to the City to act as a framework within which the grassroots movements of urban residents can take shape.

Abahlali baseMjondolo is a shack dweller's movement that actively struggles for recognition and inclusion in the post-apartheid city. According to Tissington the movement 'uses rights- based and other legal strategies in an instrumental manner, but also invoke rights-framing as one of several frames-of-reference in its political work' (2012 personal correspondence). Abahlali baseMjondolo has made explicit use of the phrase 'the Right to the City', and is perhaps the only movement in South Africa to directly appropriate this language in support of their struggles. For the movement, the Right to the City is used as a means to advocate for an acknowledgement of the need for meaningful and substantive participatory democracy that heeds the voices of the urban poor. In 2010, during South Africa's preparations for the Fifa World Cup, Abahlali baseMjondolo's Western Cape contingent launched its 'the Right to the City Campaign' (*apud* Abahlali, 2010). This campaign aimed to highlight the disparities experienced in South African cities, in particular the unequal distribution of land. According to Nobantu Goniwe, the movement wanted 'the world to see how the poor are denied the right to well located land b y South African Government and by the City of Toilets or the 'Shit City' (The City of Cape Town)' (Abahlali, 2010). For Abahlali baseMjondolo then, the Right to the City gives life to urban struggles as its core principles reflect the needs of the urban communities.

In 2011, Isandla Institute facilitated a set of conversations with representatives of the urban poor in Cape Town, as well as practitioners in the NGO sector, in order to gauge the potential value of the Right to the City for the South African context. Representatives of the urban poor indicated that they were interested in the potential of the term to mobilise communities. They explained that while many of their demands

can be articulated within the framing of the Constitution's Bill Of Rights, the validity and credibility of these rights are either challenged by their lack of presence in the experience of urban spaces by the urban poor or have been undermined by the actions of the state. The Right to the City, however, invokes more tangible alternatives as it implies a proactive recognition of the right to place. Rather than representing a unique contribution to this discourse, then, their interest was in its ability to mobilise and animate those issues that most directly affect their quality of life.

Here, the Right to the City could therefore serve to frame the struggles of the urban poor, and empower residents to claim their right to be treated as full citizens with opinions and aspirations for the neighbourhood and the city within which they live. Isandla Institute's dialogue series revealed that residents in South African cities are faced with the challenge of reclaiming those elements of collective rights and citizen agency that are visible in the Constitution, but that have become eclipsed by the satisfaction of individual rights and emphasis on the responsibilities of the state. As such, the Right to the City discourse could be used as a tool for recasting and reanimating particular issues. Such a recasting is critical for activating social commitment and shifting established patterns of policy and practice (*apud* Snow and Benford, 1988; Benford and Hunt, 1992).

The use of the right to the city as slogan is not widespread in South Africa. That is not to say however that the term does not hold immense potential for strengthening the claims of the urban poor. Both the work of Abahlali baseMjondolo and Isandla Institute's dialogues on the Right to the City indicates that the discourse serves to capture the needs of the urban poor and to articulate those avenues for action that are best suited to meeting these needs. Furthermore, the value of the right to the city for social movements in South Africa is evident in its will be that it connects local struggles into broader international arenas. By virtue of this connection the claims made become stronger, as it gains significant backing. The Right to the City can also gain traction through its use by social movements.

The Right to the City as Development Imperative

Finally, the Right to the City appears in South Africa in the form of development strategies that are concerned with creating sustainable and just cities where continuous participation by urban communities is considered critical. As with the Right to the City as both a legal right and a rallying cry, the Right to the City as a development imperative emphasises the key role that urban residents have to play in the making of their living environments. In South Africa, there is an emerging practice of participatory informal settlement upgrading. The principles and strategies that guide the practice of upgrading, a practice largely driven by civil society organisations, promote the recognition of the social function of land and harness the capabilities of urban communities in identifying and formulating alternatives to current development interventions. The practice of informal settlement upgrading does not only contribute to the realisation of the right to housing as stipulated in Article XIV of the World Charter, or to water and to access and supply of domestic and urban public services as stipulated in Article XII. Upgrading interventions also give substance to the right to participate in the planning and management of the city as stipulated in Article III and to Article IV's right to the social production of habitat. As such, the practice of participatory informal settlement upgrading is critical for envisioning a development trajectory in South Africa that is inclusive of the urban poor, and that place the needs of the country's most vulnerable at the heart of its interventions.

Cities in South Africa have become political arenas (*apud* Fieuw, 2014 personal correspondence) where the war over access to land, housing and basic services is being waged. The recent proliferation of community-based protest action counters the state's narrative of successful housing and service delivery. In 2014, it was estimated that communities gathered to protest once every two days (*apud* Municipal IQ, 2014). These protests are illustrative of a disgruntled and disillusioned citizenry that has lost faith in its public institutions and the strategies they employ. Since 1994 the provision of housing has

crystallised in the minds of South Africans, and in particular in the imagination of the state, as the central m echanism for ensuring equality in the country. While policy measures developed over the last ten years have encouraged the recognition of the value of upgrading for realising sustainable human settlements, these have struggled to gain traction and are as of yet to be implemented at scale. A continued focus on the provision of housing also illustrates the state's ambiguity towards informality, which is often taken to stand for criminality. The language used in the Minister of Human Settlement's recent budget, mentioned above, is therefore alarming as it harks back to a time when terms such as 'eradication' and 'relocation' dominated the state's approach to informal settlements (*apud* Fieuw, 2014 personal correspondence).

There are however civil society organisations in the country that are actively involved in formulating robust alternative approaches to development that take as their primary objective the creation of integrated, responsive and sustainable settlements rather than the provision of a house alone. The paradigm of participatory, incremental informal settlement upgrading works from the assumption that informal settlements are not only eyesores or problem areas diminishing the marketability of the city. Rather, they are spaces that allow low-income residents to access affordable housing as well as livelihood opportunities. Given their close proximity to city centres, where part-time or permanent work is often found, informal settlements are crucial for ensuring access to livelihood opportunities for the urban poor. Furthermore, hosts of income generating activities take place in these settlements. Because land-use is less formalized in these areas, live stock can be kept and sold on patches of free land. Markets in informal settlements offer space for trade, and residents can operate businesses from their homes. Furthermore, in her study of informal settlement functionality, Catherine Cross (*apud* 2008) illustrates not only the important linkages between the location of a settlement and its potential function, but also the varying roles that informal settlements can play in the lives of their residents.

In Cape Town in particular a number of organisations have adopted participatory informal settlement upgrading as a development strategy. Their work illustrates the potential of an upgrading approach for engendering significant transformation in urban areas. The Community Organisation Resources Centre (CORC) primarily provides support for community networks that are mobilised around particular issues. These networks include residents in informal settlements and women's savings groups (*apud* South African SDI Alliance, 2012). The organisation works in close partnership with residents to effect change in their living environments. Through a number of participatory methods, the organisation produces data that communities can use to support grassroots initiatives, to lobby the state, and to claim rights. CORC's work in Sheffield Road, Philippi is indicative of the value of upgrading methods for realising the Right to the City. The project, initiated in 2010, allowed community members to drive the intervention and to identify key issues to be addressed in their settlements. A portion of the settlement was re-blocked and as a result residents were able to gain access to adequate water and sanitation facilities and to public spaces (*apud* South African SDI Alliance, 2012).

Another organisation, Violence Prevention through Urban Upgrading (VPUU), concerns itself with the development of safe and sustainable living environments (*apud* VPUU, 2014). The organisation uses upgrading as a means to improve the quality of life of residents in informal settlements. Following a particular model of intervention, the VPUU aims to bolster social, situational and institutional crime prevention. Their interventions are therefore targeted at multiple levels, including that of the household, the settlement, and the administrative environment within which crime and crime prevention occurs. Community participation is essential to the model used by VPUU, as residents collaborate with practitioners throughout its various stages. In Harare, Khayelitsha VPUU undertook a crime mapping exercise that gave residents access to information about crime in their settlement. Since 2007, the organisation ascertained residents' perceptions of crime in the area through regular and extensive interviews with community members. The data was then used to draw up a map indicating those streets and spaces that were considered to be unsafe (*apud* VPUU, 2014). Crime maps could be used by communities to educate their members, and to strengthen their prevention initiatives.

The emergence of participatory informal settlement upgrading in South Africa indicates that there is an appetite for urban development strategies that are inclusive and responsive, that give voice to the urban poor, and that encourage the coproduction of knowledge and plans. In adopting the principles of upgrading as a progressive approach to human settlements, organisations in the country are already working towards realising some of the core aspects of the Right to the City. What the South African context lacks, however, are civil society actors with strong technical competencies.

Barriers to Institutionalisation: challenges posed by the South African case

The sections above have served to illustrate the shape that the Right to the City takes in South Africa. While dedicated community members, lawyers, activists and development practitioners work to ensure the realisation of progressive rights, there are a number of aspects of institutional life in South Africa that bar the widespread adoption and implementation of the Right to the City. Three key challenges are critical for investigating the relevance and applicability of the Right to the City in the country.

Firstly, as mentioned above, the South African state remains biased towards rural development and is in turn suspicious of a strong focus on urban interventions. As Görgens notes 'it has remained highly politically contentious to advance an "urban-centric" agenda under the ANC government. The feeling has generally been that a focus on the growth of cities largely comes at the expense of a comprehensive rural development agenda and so it has proven extremely difficult to advance urban policy frameworks' (2014 personal correspondence). In South Africa then, processes of urbanisation are often framed negatively, as undesired – albeit necessary – evils. This attitude towards the urban stifles the implementation of progressive policies as well as the creation of robust mechanisms to strengthen the capacities of local government to respond the reality of an ever growing, and ever unequal, urban population. Furthermore, planners and development practitioners are forced to pursue equality and justice through outdated and discriminatory policies provisions. If the rights of urban citizens are to be fully realised, then the state will have to make a concerted effort to strengthen urban policy and to develop coherent strategies for intervention in the urban realm.

Secondly, the adoption and implementation of progressive policies is severely hindered by institutional fragmentation. There is often confusion as to the roles and responsibilities of national, provincial and local government. While national government may design strong policy instruments, local governments do not possess the capabilities to ensure that

these are put into practice. Some of the most prevalent issues faced by urban residents are played out at the level of the everyday. Local governments are therefore central to realising progressive rights, as their interventions can ensure adequate living environments. Structures of local government are also essential for securing meaningful community participation. In South Africa ward committee are thought to provide the platform for continued community engagement in issues of development and governance. These committees are however prone to corruption and elite capture, as individuals and factions use these to gain political power (*apud* Katsaura, 2011). Party politics often detracts from the positive effects that ward committee could have, as these are turned into tools for driving a particular agenda. Furthermore, ward committees do not function at the right scale (*apud* Isandla Institute, 2013). Ward committees function 'above' neighbourhood level, and therefore neglect the intricacies of issues on the ground. They are also, however, unable to adequately connect various projects and imperatives at a broader scale. This disjuncture between the intentions of national government and the capabilities of local government continues to impede the translation of progressive policy measures into actions with lasting spatial and material effects.

Finally, the emergence of the Right to the City in South Africa is hampered by state-centric approaches to development. While notions of participation and community-driven action are promulgated in official discourse, the state – in reality – often positions itself as the sole provider of development opportunities. As mentioned above, the newly appointed Minister of Human Settlements' recent budget speech is indicative of development strategies that fail to give significant emphasis to the voices of urban residents, and the urban poor in particular. An enduring focus on the provision of housing by the state continues to undermine participatory development strategies and as such the creative potential of communities, and indeed their critical role in the making of sustainable living environments, goes unrecognised. Faced with a growing population then, the state neglects tedious processes of participation and becomes performance driven. As a result, the pursuit of quantitative targets often allows for the needs of urban communities to fall by the wayside.

Taken together the issues discussed above elucidate, in part, the mismatch between policy and practice in South Africa. Within this context then, new policy measures such as the Right to the City could serve to reinvigorate the country's commitment to spatial justice and to community participation. On the other hand, however, the Right to the City could also struggle to find traction in a context where the institutions of the state are yet to come to grips with the realities of life in urban centers.

Conclusion

Since 1994, the South African government has struggled to realise the transformative goals that were set out in the wake of the apartheid era (Huchzermeyer, 2014 personal correspondence). It is therefore difficult to imagine what effect the adoption of new legislative measures would have in the country. On the one hand it could serve as impetus and could rejuvenate an interest in, and commitment to, the realisation of just cities. On the other hand it could also serve to complicate and muddle those processes of change that are only now gaining traction, and as a result set the country and its administrative bodies back further.

As the analysis presented above shows, there is potential for the Right to the City to contribute positively to the management and development of cities in South Africa. The Integrated Urban Development Framework that is currently being formulated could serve as a more coherent approach to the issues faced in urban areas and to the residents that inhabit them. If the Right to the City is to be adopted, however, we argue that there is a need for major institutional and attitudinal shifts. Firstly, the creation of strong sub-national institutions that are able to respond to the immediate and everyday needs of urban residents must be encouraged. Secondly, the key role of civil society actors who promote and advocate for the acceptance of the principles and provisions of the Right to the City, and who capacitate urban communities to demand responsible, responsive and accountable government at all levels, must be recognised. Article XXI of the charter makes explicit the need for organisations and networks who can demand the Right to the City, and who can contribute the advancement of local struggles.

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The Right to the City: Cairo

Joseph Schechla

Egypt's capital city, Cairo, embodies one of the longest and most-dramatic transformations of any large urban center. Its current "transition," following the 2011 popular uprising against a long-standing kleptocracy, suggests a well-developed and organized civil society and social movements that would drive democratic change. Urban social movements claiming the right to the city in other regions do so in a constitutional and institutional context that has evolved beyond past tyranny to enable specific claims for greater social justice in the urban sphere. While Cairo is very much a megacity in flux, the principles of the right to the city present themselves as theoretical tools. Their implementation poses a learning opportunity for local governance yet untried, but very much in current demand.

Historic Introduction: From Memphis to Megalopolis

Cairo is located on the banks and islands of the Nile River in the north of Egypt, immediately south of the point where the river leaves its desert-bound valley and breaks into three branches into the low-lying Nile Delta region.

Cairo is one of the most visited cities in human history. Visitors and residents alike say that, in Cairo, you can find anything one want, and everything you don't want. For better or worse, various versions of this Egyptian capital have played host also to Greek, Persian, Roman, Arab, Turkish, French and English occupiers, among others over the centuries. Under normal conditions, throngs of tourists also invade daily, mixing with its resident population, estimated at between 15,750,000[1] and 22 million.[2]

Since the 5th Dynasty Pharaoh Niuserre Isi (ca. 2445–21 BCE),[3] Egypt was divided into 42 nomes[4] that, during the Old Kingdom, were partially autonomous administrative regions with their heads exercising real authority. From the beginning of the Third Dynasty, the post of *Hry tp aAw* (nomarch) was a regional representative of the monarch, appointed royal officials. By the 5th Dynasty (ca. 2494–2345 BCE), the post became hereditary—often with royal confirmation—and its holders were part of the local nobility. Egypt then began to develop the characteristics of a feudal society.

When the central power was weak, as happened during the Intermediate Periods, the nomarchs assumed functions ordinarily performed by the king and his officials. During the first Intermediate Period (2181–55 BCE), their courts competed socially with the royal court. They initiated large-scale building projects and, at times, even drafted their own militias.[5]

The nomarch retained their autonomy for nearly 500 years, until the New Kingdom (1570–1544 BCE) pharaohs curtailed their independence and they became part of the state bureaucracy. However, during the Ptolemaic Period (323–30 BC), centrally appointed mayors and village heads gained renewed significance, administering and applying Egyptian laws to native Egyptians and Greek law to Hellenists.

While some authors attribute the innovation of local administration to the Egyptians. However, "local government," in the representational and participatory sense, never has existed in Egypt, until today.

When the Greek father of history Herodotus visited the area in ca. 450 B.C., the nearby center at Memphis (now a Cairo suburb) was already 2,500 years old. The first human settlement in present-day urban Cairo was al-Fustāt, founded in 20 A.H./641 A.D., and transformed into a military encampment of 'Abd Allah ibn 'Amr ibn al-'ās, the erudite companion of the Prophet Muhammad.

Under the dynasties that ruled Egypt over the following centuries, the town grew into a major Nile River port city. In 969 AD, the Tunisian Fatimid leader, Jawhār al-Siqillī (the Sicilian), took over the region from the Ikhshids[6] and founded a new city near al-Fustāt, initially naming it al-Mansūrīyya, after Jawhar's benefactor Caliph Abū Tāhir Isma`īl al-Mansūr Billah.

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1   Demographia, "Cairo Urban Area: Central City & Suburban Population & Density," (2006), at: http://www.demographia.com/db-cairo.htm.

2   World Population Review, "Cairo Population 2014," at: http://worldpopulationreview.com/world-cities/cairo-population/.

3   Shaw, Ian, ed. (2000). *The Oxford History of Ancient Egypt* (Oxford and London: Oxford University Press) p. 480.

4   Ancient Egypt consisted of two halves, Upper and Lower Egypt, which were distinct in nature and administration through most of history. Lower Egypt, the wide river delta, had fertile black soil and many waterways, and was divided into 20 regions (Egyptian: *sepet* [spA.t]) generally referred to by the Greek term of *nome*. Upper Egypt was a thin long strip of reddish land straddling the Nile, comprising 22 *nome*s.

5   For example, during the second Intermediate Period (2000–1570 BCE), the noblemen of Thebes led a revolt against the Hyksos kings (ca. 1650 BCE), ultimately overcoming them and founding their own native 18th Dynasty.

6   The Ikhshidid dynasty of Egypt ruled from 935 to 969. The Abbasid Caliph Muhammad had appointed bin Tughj al-Ikhshid, a Turkic slave soldier, as governor. The dynasty carried the Arabic title "wali," ruling on behalf of the Baghdad-based Abbasids. The Ikhshidid dynasty end with the Fatimid army's 969 A.D. conquest of Fustat.

The city shared the site of an early Roman installation known as Babylon Fort. However, its current name derives from the Arabic term for the planet Mars (*al-Nijm al-Qāhir*), which was rising on the day that the city was founded. The city's name also is the feminized form of the Arabic word for subduer or subjugator, often also translated as "victorious."

The Fatimid rulers of Egypt founded a dynasty that lasted for two centuries, making Cairo their capital. The nearby Pharaonic origins aside, al-Qahira, like Baghdad, in modern Iraq, is a relatively new human settlement among Arab capitals. The city's human origin at Memphis is effectively deserted, except for busloads of tourists who regularly visit its singular relic: the gigantic, toppled statue of Pharaoh Ramses II.

Salāh ul-Dīn al-Ayubī al-Kurdī seated his Ayyubid dynasty in 12th Century Cairo as the capital of a vast empire. (Al-Fustat, however, was burned down as part of the "scorched earth" strategy that defeated the Crusaders.) In the 13th Century, the Mamluks eclipsed the Ayyubids at Cairo, whence they ruled Egypt throughout 658–921 A.H. (1260–1516 A.D.) During the first hundred years of Mamluk rule, Cairo experienced its most illustrious period. Al-Azhar University, founded already in the 10th Century, became the foremost center of learning in the Islamic world, and Cairo played a key role in the east-west spice trade. Most of its greatest buildings today were constructed during this period.

By the second half of the fourteenth century, Cairo experienced a decline, beginning with the scourge of the Black Death (1348) and other epidemics. By the end of the 15th Century, new trade routes had broken the city's monopoly on the spice trade and, in 1517, the Ottoman Sultan Selīm I (reigning 1512–20) defeated Mamlūk forces and conquered Egypt, putting the city under Turkish rule. The Ottoman masters reduced Cairo to a provincial capital and, by the end of the 18th Century, its population had declined to under 300,000. The pashas left in 1768 and the Mamlūks effectively ruled the country. Napoleon's troops occupied the city between 1798 and 1801, under a British assault. With Britain focused on maintaining India and repelling Napoleon in Europe, Cairo returned to Mamlūk rule.

The modernization of Egypt and its capital began under Mehmet (Muhammad) `Ali al-Mas'ūd ibn Āghā 1182–1265 AH (c.

1769–1849 AD), often cited as the "father of modern Egypt." He ruled for nearly half a century, beginning in 1219/1805, developing it, extending its streets and expanding its borders. The modernization of Cairo that began in 1245/1830 under Muhammad `Ali reached new levels during the reign of Isma`il Pasha (1279–1296 AH/1863–79 AD), who undertook a major modernization of the city modeled on the renovation of Paris under Napoleon III (1222–1289 AH/1808–73 AD).

Historic Cairo (before 1276 AH/1860 AD) was confined to a land area abutting the eastern hills and only slightly higher than the Nile banks' flood plain. To the west of the older, medieval part of Cairo, the newer sections of the city to the north (Abbasiyya, Shubra and Heliopolis) and south (Ma`adi and Helwan) emerged under Isma`il Pasha and his successors. Modern Cairo boasted wide avenues laid out around circular plazas in the style of a European city, coincident with a rise in French and British colonial power in Egypt.

The British occupiers ruled Egypt from 1822 to 1922. With the British withdrawal after the costly First World War, an era of foreign government came to an end. The advent of the 20th Century saw advances in bridge building and flood control, which enabled and encouraged riverfront development. By 1345 AH/1927 AD, Cairo's population had reached one million. In the first half of the century, foreign influences dominated Cairo. During World War I (1914–18), it became the headquarters for British troops and military operations in the region. Nationalists curtailed the British military presence in Cairo during the 1920s, and Britain abolished its protectorate over Egypt and unilaterally declared the independent Kingdom of Egypt, ruled by Muhammad Ali's descendants. However, British forces, having been relegated to the Canal Zone and external borders, reoccupied the country and city during World War II (1939–45). Only after the war did Cairo's expansion extend across the Nile into Giza and north into Shubra al-Khayma Governorate.

With the Egyptian Free Officers' coup in 1952, the colonial presence in Cairo—and throughout the country—came to an end. Since then, large numbers of Egyptians from other parts of the country have migrated to the capital, and the government has accommodated a rapidly growing urban population. Cairo's

"Master Plan" of 1956 led to the creation of new, planned suburbs, including Nasr City, Muqattam City, and Engineers' City (Muhandisīn).

Building Nasr City followed an ambitious 1958 scheme to develop the desert fringe through a public-sector concession company affiliated with the Ministry of Housing. It involved a public housing program through which, by 1965, the Cairo Governorate had constructed almost 15,000 units for low-income families.

The 1967–73 period saw military conflict with Israel, and the consequent expenditures sapped efforts at addressing urgent social problems such as housing. It was only during the period of 1974 to 1985 that the government realized the extent of the informal social production of housing and sought to check the rapid encroachment of slums on state and agricultural lands. The central government launched its New Towns policy in 1992, after the authorities perceived impoverished urban neighborhoods as breeding grounds for social and political instability.

The 1982 Master Plan (by *Institut d'Aménagement et d'Urbanisme de la Region de l'Île de France*) sought to meet housing needs of the poor in ten satellite cities. However, the sites did not attract the target population, plans for four towns were scrapped, and most of the rest became sites for medium and luxury housing. Then the government finally launched a program to improve informal or `*ashwa'i* settlements across the country.

Today, Greater Cairo is made up of the whole of Cairo Governorate and the urban parts of Giza Governorate (west bank of the Nile) and Qalyubia Governorate (north of Cairo Governorate). The governorates constitute the main local administration districts in Egypt, with no macro-level structure that covers Greater Cairo as a single administrative entity, except for certain services provision (e.g., water, wastewater, and public transport). For planning purposes, Egypt's General Organization for Physical Planning (GOPP) has established the concept of the "Greater Cairo Region."

In Cairo, urban poverty is not concentrated only in identifiable geographic pockets, but rather dispersed throughout the city. Poverty and extreme poverty affects

families found mixed with lower- and middle-income families in older core neighborhoods and sprawling informal areas of Greater Cairo. A small percentage of entrepreneurs and professionals also reside in these areas, especially because of the lack of residential mobility, rent control and affordable real estate markets.

Besides being a "melting pot" of Egyptians brought together over millennia of migration, the Greater Cairo Region also hosts the bulk of Egypt's refugee population. Their total number is at least 150,000, comprised of asylum seekers from Sudan, Somalia, Palestine, Ethiopia, Eritrea, Afghanistan, Burundi, Iran, Iraq, Liberia, Rwanda, Sierra Leone, Syria and Yemen, and several other African states.[7] Cairo also has produced its own asylum seekers elsewhere, estimated at about ten thousand.[8] However, these numbers are eclipsed by the Egyptian migrants into Cairo from among the over five million rural people who face poverty and dispossession, particularly those having lost their lands and livelihoods due to privatizing land reforms in the neoliberal era.[9]

Currently, most of the "formal" urban advance is to the desert outskirts of Greater Cairo, exemplified by New Cairo City, Qattamiyya, Mena Garden City and Sheikh Zayyad City, to the east, and Dreamland and Beverly Hills, to the west of Giza, which the Egyptian élite favor. These developments are providing luxury housing and serviced land for commercial

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7   See Table 1. "Refugees, asylum-seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern to UNHCR by country/territory of asylum, end-2006," *UNHCR Statistical Yearbook 2006: Trends in Displacement, Protection and Solutions* (Geneva: UNHCR, December 2007), at: http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?id=478ce34a2&tbl=STATISTICS.

8   UN data indicate 9,307 Egyptians sought asylum in other countries as of end-2006. £Table 2. Refugees, asylum-seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern to UNHCR by origin, end–2006" (updated 12 March 2008), at: http://data.un.org/DocumentData.aspx?id=69.

9   Particularly as a consequence of enforcing the Owners and Tenants Law amendment (Law 96 of 1992). Development Research Center on Migration, Globalisation and Policy, "Internal and International Migration in Egypt," at: http://www.migrationdrc.org/research/projects/project5a.html.

investment, in order to achieve the highest possible level of income for the state and private investors.[10]

Egypt's demographics place relentless pressure on its economy to continue rapidly expanding. In 2010, the population was estimated at 84.5 million people—more than double the population just 30 years earlier. Virtually all Egyptians live in 5-7% of the country that is not desert, packed densely into the Nile Valley and Delta. Metropolitan Cairo, including the Cairo, Giza and Qalyubia Governorates, is home to 20 million people. The high annual population growth rate of 1.73% has created a population "bubble," with close to 32 million citizens under the age of 18.

Demographic Trends in Egypt		
Year	Population	+/- % p.a.
1882	6,712	--
1897	9,669	+2.46%
1907	11,190	+1.47%
1917	12,718	+1.29%
1927	14,178	+1.09%
1937	15,921	+1.17%
1947	18,967	+1.77%
1960	26,085	+2.48%
1966	30,076	+2.40%
1976	36,626	+1.99%
1986	48,254	+2.80%
1996	59,312	+2.08%
2006	72,798	+2.07%
2013	84,314	+2.12%
Source: ESIS		

Metro Cairo had doubled in size over the past five years. It is now expanding at three times the rate of "formal" growth.[11] Thus, social production of habitat takes on diverse forms and occupies any available surface.

The housing crisis is not actually one of a housing shortage, as such, but one of maldistribution. "In fact, Cairo is filled with buildings that are half empty."[12] However, the problems remain in distribution and economic access to impoverished Egyptians without adequate housing. In Egypt, "public investment [for housing] has been largely wasted," with the result that about 20 million people live today in houses that are detrimental to their health and safety"[13] Today, consistent with applicable criteria of "homelessness,"[14] some 1.5 million Cairenes, like about 200,000 Alexandrians, live on rooftops.[15]

Meanwhile, Greater Cairo has grown into the 16th largest metropolitan area in the world (1,709 km^2). Cairo also boasts the first metro system in Africa, followed by Algiers in 2011. It transports an estimate 700 passengers each year in the world's

10   Salwa Ismail, "Reconfiguring Cairo: New Popular Quarters between the Local and the Global," in *Political Life in Cairo's New Quarters: Encountering the Everyday State* (Minneapolis: University of Minnesota Press, 2006), pp. 30-31; and Mootaz Farid and Hatem El Shafie, "An Assessment of the New Cairo City," (1996), pp. 14, 17, at: http://faculty.ksu.edu.sa/hs/Research/An%20Assessment%20Of%20The%20New%20Cairo%20City.pdf.

11   Centre de recherche et de documentation économique, juridique, et social and the Participatory Urban Management Programme (Ministry of Planning and GTZ), *Information System for Informal Development*, unpublished draft, cited in David Sims, with contribution from Monika El-Shorbagi and Marion Séjoumé "Urban Slums Reports: The case of The case of Cairo, Egypt," *Understanding Slums: Case Studies for the Global Report on Human Settlements 2003* (London: UN Habitat and Development Planning Unit, University College, 2003), p. 14, at: http://www.ucl.ac.uk/dpu-projects/Global_Report/pdfs/Cairo.pdf.

12   Jeffrey Nedoroscik, *The City of the Dead: A History of Cairo's Cemetery Communities* (Westport: 1997), p. 42.

13   Ahmed Soliman, in Ananya Roy and Nezar al-Sayyad, *Urban Informality: International Perspectives from the Middle East, Latin American and South Asia* (Lanham MD: 2004), pp. 171, 202.

14   Corresponding with definitions derived from the survey of homelessness in Graham Tipple and Suzanne Speak, "Definitions of homelessness in developing countries," Habitat International 29 (2005) 337-52; and Tipple and Speak, "Homelessness in Developing Countries" (Newcastle: University of Newcastle upon Tyne, May 2003). According to Tipple and Speak, "In South Africa, Egypt and Bangladesh, homeless persons may be considered to include also those inhabiting inadequate structures, such as cemeteries, rooftops, shacks, etc., but would exclude some squatters."

15   Ahmed Soliman, *A Possible Way Out*: *Formalizing. Housing Informality in Egyptian Cities* (Lanham MD: University Press of America, 2004), p. 119.

43rd largest urban economy, the largest city in Africa and in the Arab world, with 11th largest urban population on earth.

The challenges to operationalizing the right to the city are combined with a lack of local government in the sense of citizen participation and regional autonomy. However, the city and state never have been visited by a democratic experiment, despite the decentralizing antecedents of the Old Kingdom.

Greater Cairo Population		
Governorate	Estimate (at 1/2010)	Area (km²)
Cairo	8,968,723	214
Giza	6,107,365	85,153
Qalyubia	4,546,564	1,001
Total	19,622,652	86,368

Throughout its Pharaonic, Hellenic, Roman, Hellenistic, Coptic, Arab, Ayūbid, Islamic, colonial, royalist, Arab Nationalist and kleptocratic/military condominium of the past, Cairo never has been sacked. However, since 2011, through popular revolts, successive governments and constitutions, Cairo and the rest of Egypt and its institutions have been shaken, leaving Cairo and other Egyptian cities in an even greater local-governance limbo.

The 2014 Egyptian Constitution does not provide for local government at the municipal or regional level, although it does hint at the prospect of elections for regional governors (as dicussed below).[16] While political efforts have concentrated on restoring central institutions and leadership, modest local innovations and initiatives at achieving the "right to the city" (R2C) have come from the civil society. The following analysis will seek to identify strategic options, obstacles and assets toward recognizing the right to the city in megalopolis Cairo.

Human Rights Obligations

Constitutional Provisions and Domestic Law

Egypt has undergone a prolonged struggle for democracy through which its government has operated under three constitutions and one "constitutional declaration" since 2011. On 25 January 2011, widespread protests by young and determined activists took to the streets of Cairo and other major cities in sustained, largely peaceful demonstrations for a period of 18 days, until former President Husni Mubarak stepped down. On 11 February 2011, Mubarak resigned and fled the capital. The Supreme Council of Armed Forces (SCAF) assumed power on an interim basis.[17] On 13 February 2011, SCAF dissolved the parliament and suspended the constitution.[18]

A constitutional referendum on 19 March 2011 passed several amendments to the old Constitution of 1971, amended in 2007 to remove most of socialist tenets. On 28 November 2011, Egypt held parliamentary elections. Egyptians elected Mohamed Morsi president on 24 June 2012 in a close race. On 2 August 2012, Egypt's Prime Minister Hisham Qandil announced his 35-member cabinet, comprising 28 newcomers, including four from the Moslem Brotherhood (MB). Liberal and secular groups walked out of the constituent assembly because they believed that it would impose socially unacceptable practices premised on the Islamic religion.[19]

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17   Kirpatrick, 2011; & BBC, 11 February 2011.

18   BBC, 13 February 2011.

19   Including setting the minimal age for marriage of girls at 9 years old; denying wives the right to file legal complaints against their husbands for rape; insisting that a husband have "guardianship" over his wife; requiring a wife to obtain a husband's consent in matters like travel, work or use of contraception; and daughters should not have the same inheritance rights as sons, allowing men to have sexual intercourse with their dead spouses; discouraging women participation in the paid work force; annulment of the right of women to divorce by *khul'a* in Islamic Law; and encouraging female genital mutilation. David D. Kirkpatrick and Mayy El Sheikh, "Muslim Brotherhood's Statement on Women Stirs Liberals' Fears,"*The New York Times* (14 March 2013), at: http://www.nytimes.com/2013/03/15/world/middleeast/muslim-brotherhoods-words-

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16   Article 179 of the Egyptian Constitution of 2014 provides: "The law shall regulate the manner in which governors and heads of other local administrative units are appointed or elected, and shall determine their competences."

On 22 November 2012, President Morsi issued a constitutional declaration immunizing his decrees from challenge and seeking to protect the work of the constituent assembly (BBC).[20] Massive protests erupted and violent action spread throughout the country (Spencer).[21] On 5 December 2012, tens of thousands of supporters and opponents of president Morsi clashed.[22] Morsi offered a "national dialogue" with opposition leaders but refused to cancel the December 2012 constitutional declaration.[23]

On 30 June 2013, massive protests comprising millions of Egyptians were organized across Egypt against Morsi's rule, leading his ousting on 3 July 2013 based on a popular call for the army to remove the MBs autocratic regime.[24] A roadmap for a power handover was orchestrated by the military jointly with the opposition leaders' block to elect a new president, parliament and government through an agreed-upon transitional program.

Two interim governments have been appointed since the 30 June 2013. Following the deliberations of a 50-member drafting committee, 98.1% of voters, with a turnout of 38.6% eligible, approved a new Constitution of Egypt[25] on 18 January 2014.[26] Presidential elections followed on 26–27 May 2014, with parliamentary elections scheduled within six months of the constitutional referendum. Two candidates were competing for presidency: Field Marshall Abdelfattah El-Sisi, and the Nasserist Mr. Hamdīn Sabāhy. Presidential election results showed a sweeping majority for El-Sīsī (96.6% of votes). The appointed interim Prime Minister Ibrahim Mahlab's government resigned, but was re-appointed to reform the shuffled Cabinet of Ministers.

In article 93 of the new Constitution Egypt recognizes the obligation to respect ratified international conventions and treaties, by giving them the force of national law. However, this text, similar to the 1971 and 2012 Constitutions, leaves the provisions of human rights conventions subject to the common legislative and judicial practice of superseding treaty obligations with successive legislation. (Judges typically give precedence to the most recent statute, without regard to their potential derogation of binding treaty obligations.)

While the 2014 Constitution guaranteed several specific rights, most notably "citizens' right to adequate, safe and healthy housing in a manner that preserves human dignity and achieves social justice" (Art. 78). The same article improves on previous practice of state, requiring a comprehensive national housing plan that upholds the environmental particularity and ensures the contribution of personal and collaborative initiatives in its implementation. It also requires the state to regulate the use of state lands and provide them with basic utilities within the framework of comprehensive urban planning serving cities and villages, as well as a population-distribution strategy. The Constitution stipulates that these plans and their implementation "serve the public interest, improving the quality of life for citizens and safeguards the rights of future generations."

The following article also guarantees each citizen's has the right to healthy and sufficient food and clean water (Art. 79). The Constitution does not specifically mention sanitation.

From a human rights standpoint, the new Constitution is flawed in the particular drafting of articles guaranteeing rights exclusively for "citizens." In a country that hosts hundreds of thousands of refugees, asylum seekers, foreign residents and millions of tourists,[27] this constitutional shortcoming is significant.

on-women-stir-liberal-fears.html?_r=0; `Amru Abd ul-Sami`, *"Wa I`lama!" al-Ahram* (daily) (24 April 2012), at: http://digital.ahram.org.eg/articles.aspx?Serial=878317&eid=11335; AP, 23 November 2012.

20 BBC (22 November 2012).

21 Spencer, 23 November 2012.

22 *Wall Street Journal* (6 December 2012).

23 Fleishman, 6 December 2012.

24 Kirpatrick,, 3 July 2013.

25 Egyptian Constitution 2013/2014, at: http://egelections-011.appspot.com/Dostour/Dostour_update2013.pdf.

26 *Al Jazeera* English (18 January 2014); Wikipedia, "Egypt."

27 14.7 million persons visited Egypt in 2010, but tourist numbers has decline significantly (to 9.5 million in 2013) due to general unrest. Adla Ragab, "Recent development of TSA in Egypt," Fourteenth Meeting of the Committee of Statistics and Tourism Satellite Account (TSA), Madrid, 14–15 January 2014, at: http://dtxtq4w60xqpw.cloudfront.net/sites/all/files/pdf/14th_meeting_egypt.pdf.

The Constitution has left several matters to domestic laws to regulate, thus enabling limitations of rights by statute, especially where domestic laws violate basic human rights, such as the rights to association and the right to strike (Art. 15).[28]

For example, relevant to urban development, recent amendments to the Law on Investment Guarantees and Incentives No. 8/1997 do not allow third parties to challenge contracts and deals between the state and investors (Art. 6), and limits the possibility of bringing charges of corruption or theft to the court or to minister of investment. This has maintained fears that the state will continue to sustain impunity for such public offenses and deny citizens' rights to protect public assets and expose chronic corruption. Meanwhile, Egypt's corruption index is ranked 114 out of 177 according to transparency international.[29]

Significantly, the social function of property (SFP) has remained a constant principle enshrined in the Egyptian Constitution since 1952. SFP remained a tenet of the Constitution of 1971, which followed the death of President Gamal Abdu ul-Nasr. This principle also survived the purge of socialistic principles in the constitutional amendments of 2007 (Art. 30), as well as the new Constitution of 2012. However, the drafters of the current (2014) Constitution inexplicably dropped this guiding principle from the final draft. Despite its long standing in the fundamental law of the land for over 60 years, Egyptian law and jurisprudence around the social function of property has never developed its meaning and application.

Living Conditions in Cairo

Though reliable data are hard to come by, trends indicate that the availability, accessibility, affordability and quality of public services in Egypt is deteriorating as a result of the legacy of deregulation, privatization and shrinking government expenditure.[30] Egypt's economic crisis and public policy deficit have exacerbated existing patterns of poverty and inequality.

At the country level, Egypt's poverty rate has increased from 25.2% in 2010/11, to reach 26.3% in 2012/13, according to Government of Egypt (GoE) reports.[31] Other sources estimate that over 40% of the population lives below the poverty line (less than $2 a day), yet 2% of the population controls 98% of the economy, demonstrating the distribution of resources in the country.[32]

Before 2011, GoE reported economic-progress indicators of increased GDP and a target of 7–8% economic growth as a means to generate employment, thus reducing poverty.[33] This prospect does not recognize that economic growth is no measure for actual distribution of wealth. Moreover, the Egyptian economy shrank by 4.2% in 2011, recovered to 5.2%

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28   See Article 15 of the Constitution of Egypt. Also, the interim government issued a law to "organize demonstration and public assembly" in November 2013, requiring a permit for any protest or demonstration, greatly impeding workers' labor actions and other public demonstrations. This law remains strictly enforced under the current government.

29   Transparency International, Egypt Corruption index, 2013

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30   Joint NGO Submission on the occasion of the twentieth session of the Situation of Economic, Social and Cultural Rights in Egypt [Universal Periodic Review 2014: Egypt], March 2014, pp. 2, 5, at: http://www.upr-info.org/sites/default/files/document/egypt/session_20_-_october_2014/js11_upr20_egy_e_main.pdf.

31   According to the Government of Egypt's Central Agency for Public Mobilization and Statistics (CAPMAS).

32   Joint NGO Submission, op. cit., citing World Bank figures. In 2009, the United Nations Development Programme (UNDP) estimated that around 41% of Egypt's estimated 80 million people live on or below poverty line of US$2.7 a day calculated by the World Bank. UNDP, *Challenges to Human Security in the Arab Countries* [hereinafter *Challenges*] (New York: UNDP, 2009), pp. 11, 114; World Bank, *World Development Indicators* (CD-ROM) (Washington: World Bank, 2008).

33   UN Committee on Economic, Social and Cultural Rights (CESCR), "Combined second, third and fourth periodic reports submitted by States parties under articles 16 and 17 of International Covenant on Economic, Social and Cultural Rights: Egypt," E/C.12/EGY/2-4, 22 December 2011 (based on 2010 GoE draft), paras. 375 and 375(a).

in February 2012,[34] while the IMF estimated 2013 growth at only 2%.[35]

The greatest proportion of poverty is found in the rural areas; however, urban populations are generally more vulnerable to food-security fluctuations, where agricultural subsistence is low. Across Egypt, the average household spends 40.6 percent of its expenditure on food, rising to more than half for the poorest, who are, therefore, even more vulnerable to food price fluctuations,[36] buying less, less-expensive and often less-nutritious, foods.

Official information on income inequality in Egypt is difficult to come by. However, the estimated Gini coefficient for Egypt was 0.32 in 2004/05, which indicates a moderate level of income inequality. However, evidence for the last decade indicates that income inequality rose in Egypt within a span of five years.[37]

While access to energy is essential to the enjoyment of adequate housing, official statistics show that almost 99.5% of Egyptian households are connected to the electricity grid. Per capita share of electricity intended for household consumption in Cairo is 1,708 kilowatts per year, three times the national average.[38]

Meanwhile, the entire country is undergoing and energy shortage. In the infamous case of Egypt's oil and gas sector, extraction has been crippled by disruption due to nonpayment to foreign concessions and the national Eastern Mediterranean Gas (EMG) scandal.[39] Now the country finds itself in a double bind with reduced fuel production for domestic use, and the inability to deliver on an illicit contract for the export of Egyptian gas to Israel.

The distribution of formal serviced land intended for housing among the various regions of Egypt is biased toward Greater Cairo, which benefits from around 74% of the country's serviced land, or about 28 meters squared per person (m^2/person). (By contrast, the share of formal serviced land for residents in rural governorates in Upper Egypt drops to 2 m^2/person.)[40]

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34 *Trading Economics*, at: http://www.tradingeconomics.com/egypt/gdp-growth-annual.

35 IMF cuts 2013 growth forecast for Egypt economy to 2%," *ahram on-line* (16 April 2013), at: http://english.ahram.org.eg/NewsContent/3/12/69408/Business/Economy/IMF-cuts--growth-forecast-for-Egypt-economy-to-.aspx; "Press Conference: April 2013 World Economic Outlook (WEO)" [video], at: http://www.imf.org/external/mmedia/view.aspx?vid=2305217342001.

36 Raising to 51% for the poorest decile, based on findings of the CAPMAS *2011 Household Income and Expenditure and Consumption Survey* (HIECS). World Food Programme, *Egypt - The Status of Poverty and Food Security in Egypt: Analysis and Policy Recommendations, May 2013*, p. 7, at: http://www.wfp.org/content/egypt-status-poverty-food-security-analysis-policy-recommendations-may-2013.

37 Ali Abdel-Gadir and Khalid Abu-Ismail, in *Development Challenges for the Arab Region: A Human Development Approach* (UNDP and League of Arab States, 2009), p. 116. The Gini index, is a number between zero and one that measures the degree of inequality in the distribution of income in a given society. A Gini index of 0 percent represents perfect equality; whereas, a Gini index of 1 per cent implies perfect inequality.

38 The Egyptian Cabinet, Information and Decision Support Center (IDSC), ""Per Capita Consumption of Electricity for Lighting," *Egypt's Governorates in Numbers 2010*, at: http://www.eip.gov.eg/Documents/StudiesDetails.aspx?id=1368

39 Under the Husni Mubarak regime, Eastern Mediterranean Gas (EMG) assumed the sole right to sell Egypt's gas to Israel. Through Israeli and Egyptian intelligence agents, that company undersold the strategic resource to Israel at a loss to Egypt of more than $11 billion. See "Egypt's Lost Power," *Al Jazeera* (2014), at: http://webapps.aljazeera.net/aje/custom/2014/egyptlostpower/index.html.

40 Yahia Shawkat, *al-'Ādāla al-Ijtimā'iyawa al-'Umrān, KharītatMisr*,op. cit., p. 49.

Production and Consumption of Housing

The acute lack of affordable housing in Cairo stems from a variety of factors, including unbridled population growth, rural-to-urban migration and inadequate investment in the sector. With the adoption of economic liberalization policies and reduction of social spending in the state budget as a consequence, Egypt's investment in the housing sector dropped significantly over the past two decades.

Housing construction has been a major priority of State-sponsored development plans since the 1980s; however, most housing in Egypt is self-built (60–70%).[41] The official count of informal (or *ashwa'iyāt*) current stands at 1,221, housing approximately 20 million people, or one-quarter of the country's population.[42] Cairo is host to at least 76 such *ashwa'iyāt*, which is generally understood to qualify a residential area as a slum

While the five habitual criteria defining a "slum" address material and tenure conditions,[43] the absence of local government is also a common feature, regardless of the state context. This absence of the human rights-compliant state in informal settlements not only tends to deny basic services, but also enables the emergence of private parties operating outside of the law as "slum lords," land mafias and patriarchal social formation that may violate the human right to adequate

housing, among other human rights, in myriad ways. (Cairo's governance is discussed below.)

In Cairo, the majority of housing construction is carried out informally, without official plans or permits. Enforcement of housing standards is lax, leading to much corruption and impunity in the sector, despite the adoption of the Unified Building Law No. 119 (2008). At the same time, the majority of impoverished households live with insecure tenure, which leaves them ultimately vulnerable to forced eviction, demolition and dispossession under various public-purpose and private-sector projects (addressed below).

Meanwhile, the housing demand for "affordable housing" rises by 300,000 units every year, out of a total annual demand for 440,000–600,000 units.[44] The government's ambitious NHP to build 85,000 units annually, therefore, does not close the housing gap.

On average, Egyptian households spend 34.5% of income is spent on housing.[45] With property prices at an average of seven times the annual income, it would take an average of 19 years for an average household to pay for its own housing in Egypt.[46]

The private sector dominates the total formal real-estate supply at 80%. While luxury real estate development has remained a lucrative business, it only serves an estimated 3% of the population.[47]

The 2013 housing and development budget of EGP 3.9bn (€430 million), actually marked an approximate 38% increase from the 2011/2012 fiscal year. Despite these efforts, Egypt's housing shortage remains acute, with an estimated three million units currently needed in rural and urban areas. The

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41   GTZ, 2009, *Cairo's Informal Areas: Between Urban Challenges and Hidden Potentials*, p.81, at: http://egypt-urban.pdp-gtz.de1.cc/wp-content/uploads/2010/03/Cairos-Informal-Areas-Between-Urban-Challenges-and-Hidden-Potential-2009_EN.pdf.

42   Central Agency for Public Mobilization and Statistics (CAPMAS) figures as of 2009.

43   UN-Habitat defines a slum household as a group of individuals living under the same roof in an urban area who lack one or more of the following:
1. Durable housing of a permanent nature that protects against extreme climate conditions,
2. Sufficient living space which means not more than three people sharing the same room,
3. Easy access to safe water in sufficient amounts at an affordable price,
4. Access to adequate sanitation in the form of a private or public toilet shared by a reasonable number of people,
5. Security of tenure that prevents forced evictions.

44   "New Lafarge project for affordable housing," *Daily News* (16 February 2013), at: http://www.dailynewsegypt.com/2013/02/16/new-lafarge-project-for-affordable-housing/#dnePhoto/1/.

45   Housing and Building National Research Centre.

46   "New Lafarge project for affordable housing," *Daily News* (16 February 2013), at: http://www.dailynewsegypt.com/2013/02/16/new-lafarge-project-for-affordable-housing/#dnePhoto/1/.

47   "Egypt: Housing a priority," Oxford Business Group (1 October 2012), at: http://www.oxfordbusinessgroup.com/economic_updates/egypt-housing-priority.

greatest shortage remains in low-cost housing, despite the presence of 7.7 million vacant units, according to the latest available census (2006).[48]

To mitigate urban expansion, especially on precious agricultural land, GoE has spent between LE 60bn and LE 500bn (€6.6bn–€55bn) on the New Cities programme between 1977 and 2010. Reportedly, GoE spent LE 16 billion (€1.7bn) on low-income housing between 2005 and 2012.[49] However, these measurable inputs are not evaluated by any index that monitors enjoyment of the right to adequate housing, or gauges these interventions against a national standard for adequate housing.

One of the significant government initiatives in the housing sector since 2000 has been the introduction of the Mortgage Law No. 148 and establishment of the Egyptian Mortgage Refinance Company (EMRC) in 2001. In the view of the World Bank and the State party, one of the "distortions" that prevent the housing market from functioning efficiently is the Old Rent (i.e., rent control) Law and the small, underused mortgage sector. To address this, the World Bank has supported institutional frameworks and incentive structures to enable an expanded private-sector role in the financing and delivery of affordable housing, which would help to rationalize the subsidies provided to low-income groups, and ensure the continued development of a viable rental market to serve the needs of the lowest income groups.[50]

This methodology has been applied in practice, in order to transform the direct and indirect subsidies that go toward government-sponsored low-income housing projects into mortgage loans for the middle and low-income groups (between the 75th to 45th percentiles). Funding of these projects is designed to come from sustainable fiscal sources, mainly the private sector, freeing up the existing cash subsidy to be targeted at the lower-income groups in the form of rental and site-and-services projects, which eventually would be phased out entirely.[51]

A relatively new introduction to housing finance in Cairo is the Mortgage Law No. 148 of 2001. However, this scheme has been criticized for ignoring the fact that housing was already quite unaffordable.[52] Notably, the house price-to-income ratio in Egypt is 7:1 and up, which is almost double the level of most-developed nations.[53]

Mortgage financing has not been a popular option for Egyptian home buyers. Among the biggest deterrents to mortgage finance in Egypt is the costly and cumbersome property-registration process, as well as the lack of sufficient legal infrastructure to enforce contracts. Other impediments include restrictions on extending bank credit to the housing sector, lack of valuation information, lack of credit risk information and complex regulations. Rather, the Mortgage Law achieved the increased commodification of the housing market

48   Central Agency for Public Mobilization and Statistics (CAPMAS), 2006.

49   According to the New Urban Communities Authority, public investment in the existing 24 new cities was LE 58.2 billion over three decades that combined spending on housing, services and utilities, agriculture and studies. New Urban Communities Authority website, at: http://www.urban-comm.gov.eg/achivments.asp. However, in a 2010 speech, then Prime Minister Ahmed Nazif reported the total investment figure to be LE 500 billion. Sharif Jaballah, "500 billion pounds to create new cities provide 600 thousand jobs annually," al-Ahram [Arabic] (17 December 2010), at: http://digital.ahram.org.eg/articles.aspx?Serial=371773&eid=454..

50   Sahar Nasr and Laila Abdelkader, "Tackling the shelter challenge: developing the mortgage market in Egypt," MENA knowledge and learning quick notes series, No. 59 (Washington: World Bank, 2012), at: http://documents.worldbank.org/curated/en/2012/02/15987985/tackling-shelter-challenge-developing-mortgage-market-egypt.

51   World Bank, "Egypt, Arab Republic of - Affordable Mortgage Finance Program Development Policy Loan Program" (Washington: World Bank, 2009), at: http://documents.worldbank.org/curated/en/2009/08/11033691/egypt-arab-republic-affordable-mortgage-finance-program-development-policy-loan-program.

52   Wael Fahmi and Keith Sutton, 2006. "Greater Cairo's housing crisis: Contested spaces from inner city areas to new Communities," City, Vol. 25, Issue 5 (October 2008), pp. 277–97.

53   For example, US and UK is 4:1. See also Yahyia Shawkat, "Impact of World Bank policy and programs on the built environment in Egypt," Bank Information Center, November 2012, at: http://eipr.org/sites/default/files/pressreleases/pdf/wbegypt-en.pdf; David A. Smith, "Affordable Housing Institute presentation, Affordable housing in Egypt: Development opportunities, Session 1: Introduction, goals, basics, Executive education seminar, American University of Cairo, May 2012, at: http://www.aucegypt.edu/Business/ieei/programs/Documents/Flyer%20for%20Affordable%20Housing%20Program%20(NEW).pdf.

in favor of private developer interests to supply expensive housing in a context that lacked sufficient regulation of the housing market. The result has been the market's decreasing share of low-income housing and decreased affordability of formal housing for most needy Egyptians.[54]

Functioning during the years between 2005 and 2011, the National Housing Project (NHP) had the goal of providing 500,000 subsidized housing units, but was only able to provide 360,000 units, 90,000 of which were built by private owners and developers on subsidized land. Furthermore, these units didn't always reach those most in need, although the plan specified that it targets "low-income" households. But due to an inaccurate definition of "low-income," subsidized housing units were available only to families from the top half of the second, low-income quintile all the way up to the upper levels of the fifth, richest quintile. The plan was also socially discriminatory, as one of the schemes, the *Bait al-'a'ila,* made units available only to male applicants from professional syndicates or government agencies who had to prove that their wives had both a college degree and were employed, with no more than two children.[55] A final problem with the NHP is that it specified that only those working in the formal sector qualify to receive loans and assistance, making 40% of the population ineligible for the project's benefits.[56]

In an effort to match the needs of the housing market, many policies have in turn harmed the most vulnerable and have led to an imbalance in the distribution of investment and services.[57] To deal with this proliferating slum phenomenon,

the state initiated many development plans that have proved to be futile, and often have violated the rights of the residents in these areas, including under the NHP.

54   Bayoumi, Walid N A. 2009. The Tale of the Unsettled New Cairo City-Egypt: A Review for the Implications of the Adopted Privatization and Laissez- Fair Policies on Excluding the Poor from its Housing Market. Unpublished PhD http://www.regional-studies-assoc.ac.uk/events/2009/apr-leuven/papers/bayoumi.pdf

55   Shawkat, Yahia. Mubarak's Promise Social justice and the National Housing Programme; affordable homes or political gain?

56   Ibid

57   Yahyia Shawkat, "Impact of World Bank policy and programs on the built environment in Egypt," Bank Information Center, November 2012, p. 45., at: http://eipr.org/sites/default/files/pressreleases/pdf/wbegypt-en.pdf; David

A. Smith, "Affordable Housing Institute presentation, Affordable housing in Egypt: Development opportunities, Session 1: Introduction, goals, basics, Executive education seminar, American University of Cairo, May 2012, at: http://www.aucegypt.edu/Business/ieei/programs/Documents/Flyer%20for%20Affordable%20Housing%20Program%20(NEW).pdf..

Housing Rights and Forced Eviction

Much effort to address the human right to adequate housing in Egypt, including government initiatives, focuses on the informal settlements, which are built as an alternative to the formal options available.

While in dealing with informal areas, the government has been implementing large slum-clearance schemes, resettling over 41,000 families over the last decade and a half, two thirds of which were re-housed on city outskirts, far from their original places of residence, where little, if any, proper consultation occurred, and where numerous incidents of unfair compensation or the absence of legal tenure are reported.[58]

Violations to the human rights to adequate housing, water and sanitation and other social rights are evident in the living conditions of Greater Cairo, Some of these squalid living conditions are sometimes legalized through an urban governance framework that is ambiguous and lacks transparency and accountability to the public. For example, many legislative clauses authorize the executive to make exceptions, such as Law 10 "Expropriation for Public Purpose" (1990), which empowers Cabinet ministers to declare a project as for the "public good" and, thus, to expropriate private property without the right for property owners to appeal and authorizing the commission of forced eviction.

Although the judiciary authority historically has lacked sufficient independence from the executive authority, some rulings in the recent period demonstrate that courts have considered human rights dimensions in particular cases. On 6 February 2013, the Administrative Court in Alexandria ruled to cancel the orders of both ministers of Irrigation and Water Resources and of Transportation, based on a 1969 Presidential Decree (No. 2095), to evict the families of civic employees, estimated at 5 million persons, living for over 30 years in housing belonging to the Egyptian National Railways.

The court clarified in its ruling that the ministerial decree emanated from an authority other than that invoked in the presidential decree on which it was based, and that it breached the 2012 Egyptian Constitution, which obliges the state to provide for each citizen to realize rights to adequate housing, clean water and healthy food. The court has obliged the government to set "a national housing plan," based on social justice, that uses urban lands in the public interest, preserves the rights of the next generations and maintains the dignity of Egyptian families through the exercise of their right in adequate housing.[59]

However, in the past decade and a half, the Egyptian government forcefully evicted around 24 thousand families, and resettled some in housing units on the outskirts of the city, with the majority of these evictions occurred in Greater Cairo.[60] Eviction and resettlement takes many shapes and forms. In such cases, a common practice is to cut off residents' electricity, water and sanitation to force them to leave their homes,[61] and it also common that the housing units promised as compensation are not adequate in services and facilities, or lack legal tenure, leaving residents at risk of eviction, even in new settlements.[62]

The state put in place a national program for the development of informal settlements in 1993–2008. Instead of adopting a strategic vision to develop informal areas and improving the living standards of their residents, the government removed more than 5,396 homes from 350 settlements in return for unfair compensations, which averaged 5,000 EGP (€529) per room.[63]

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58   Shawkat, 2013 Pgs. 80 -86

59   "Administrative court requires president to provide adequate housing" [Arabic], *almasrawy.com* (6 February 2013), at: http://www.hic-mena.org/arabic/news.php?id=pWxIag=

60   Ibid pg. 83

61   Rights-Egypt: Families Uprooted as Sphinx Revive, Inter Press Service (IPS), 23-2-2012

62   "Demolition of five housing units in 'New Qurn`a' one year after residents move in...with no injuries," *Jarīdatal Badīl*(9 June 2011).

63   Yahia Shawkat, *al-'Ādāla al-Ijtimā'iyawa al-'Umrān, KharītatMisr*, Social Justice and the Built Environment, A Map of Egypt, 2013 pg. 82

Hundreds of families continue to suffer from serious violations after being forcibly evicted without reparation of any kind. On 18 February 2014, Cairo Governorate, supported by riot police, removed the homes of almost 1,000 families in Izbatal-Nakhl area in Cairo without prior notice or consultation with the residents, and using excessive force.[64] On 26 February 2014, riot police demolished the tents of dozens of families who were victims of the demolition of 18 February, and forced them to stay in the open.[65]

Field investigations over time have revealed that the minimum standard for publicly subsidized housing for low-income households to resettle slum dwellers has diminished spatially over the past two decades. The former minimum of some 72 sq. meters per household has declined to a current standard of 24–26 sq. meters, thus constituting a retrogression in the realization of housing rights.[66] Exemplary among such publicly funded substandard housing projects is the case of Pyramid City. There, the Cairo Governorate has "resettled" slum dwellers in a desert project far from their sources of livelihood and social capital. At least one civil society initiative has attempted to evaluate the losses to both the displaced households and the public from this Greater Cairo slum-resettlement policy.[67]

Developing Cairo

The general development vision prevailing in Cairo before and after the political changes in central government follows a persistently top-down approach. The futuristic "Cairo 2050" Plan, issued in 2010, aims to model Cairo after other cities of the world with an urban-renewal scheme that threatens to evict untold thousands of households, especially low-income and informal neighborhoods. The plan, now revised as Egypt 2052 to encompass other cities, now replicates this development strategy nationwide. The implementation of such plans would require the displacement of many thousands of households. Portions of these plans are targeting impoverished and marginalized areas of the city for the construction of hotels, shopping centers, increased green space in the city center, etc. and will have a disproportionate benefit for the wealthy minority of the city.[68] The funders of the master plan are the General Organization for Physical Planning (GOPP) of the Egyptian Ministry of Housing and Urban Development, UN-Habitat and UNDP, with implementing partners being GOPP and UN-Habitat (UNDP undated).

Slum conditions in Cairo

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64   Some 1,000 families at risk of forced eviction in Marg - EIPR: Cairo governorate must refrain from the use of force and provide adequate housing for the residents of Eshash al-Tawfiqiya, EIPR Press Statement, 18/02/2014

65   Rights groups condemn eviction of dozens of families and demolition of their tents this morning in Ezbet al-Nakhl in Cairo, Joint Press Statement, 26 February2014.

66   Egypt's reply to the CESCR list of issues in 2000 referred to standards of 63, 70 and 100 m2. HR/CESCR/NONE/2000/6, This declining standard was the subject of a field visit by the CESCR chairperson to Egypt in January 2001, and is confirmed to continue in government-sponsored low-income housing construction. Observation of field work by Housing and Land Rights Network – Habitat International Coalition and the Egyptian Center on Civic and Legislative Reform, 2012–13, in the case of informal settlement households removed to the Pyramid City compound (6 October Governorate) over the past five years.

67   See "Fact-finding Mission on Duwiqa Community Displaced to Pyramid City," Egyptian Center for Legislative and Civic Reform (2014).

68   Workshop Report "Cairo2050," 13–14 July 2011, at: http://hic-mena.org/img/documents/report%20of%20workshop%20eng%20final.pdf.

Primary issues of contention are the lack of clear and available information on these plans, as well as the absence of meaningful consultation with the inhabitants affected under the plan. It is clear that concrete steps has been taken to implement this dreaded mega project, as communities in Maspero, Ramlat Bulāq and other Nile-front areas have been confronted by threats of removal as a result of real-estate investment, presumably linked to Cairo 2050 visions.[69]

However, the government has yet to reveal a revised plan or any updates on progress to the public. Moreover, the GoE has declined to address related questions from the UN Committee on Economic, Social and Cultural Rights (CESR) on how it has applied the *UN Principles and Guidelines on Development-based Eviction and Displacement*.

As a complement to urban renewal of Cairo, and a precursor to the Cairo 2050 Plan (now reissued as the "Strategic Plan for Egypt 2050"), the Informal Settlements Development Fund (ISDF) was established in 2008. Within its broader urban-renewal mandate, this executive-branch agency has directed its primary focus on the removal and resettlement of communities in "unsafe areas." These are areas deemed to be uninhabitable, primarily those classifies as life threatening due to their location (a) under sliding geological formations, (b) in flood areas and/or (c) under threat of railway accidents. In 2012 the ISDF conducted a study that found 372 unsafe areas, including 207,233 housing units in Egypt. More than a quarter of these are in the Greater Cairo region. Most or all are slated for removal.

Privatizing Cairo

Important to the process–and challenges–of realizing the right to the city in Cairo is the economic development model assumed by the previous regime, interim governments and under current policy. The experience of the wave of privatization in Egypt began when the government signed an agreement with the World Bank, in May 1991, to a corrective structural program of the Egyptian economy. However, the real start to give the private sector its importance and influential role, was with the opening (*infitāh*) of the economy in the era of the late President Anwar al-Sadat (1970–81) in 1975, which actually widened the income gap in Egypt (McDermott 1988: 82; Abdelazim: 77).[70]

The widespread privatization under President Hosni Mubarak ostensibly sought to restructure public corporations, in order to increase the use of available energy, expand the ownership base and the increase opportunities to connect to foreign markets, access modern technologies, attract capital investment and stimulate capital markets, as well as reduce government spending and rid public institutions of the major losses accumulated.[71] The Law No. 203 of 1992 provided the legal basis for privatization, removing 314 public-sector enterprises from government control and restructuring them as affiliates under sixteen independent holding companies.

In principle, the holding companies have operated as private-sector companies with full financial and managerial

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69   Many news reports have covered this issue, see, for example: E. Benmen, "Egypt: Nile City Towers, A Tale of Two Cities," *Business Today* (11 September 2012); M. Ayad, "Slum Development Fund Seeks to Fund Projects in Minya and Ramlet Bulaq at an Estimated Cost of EGP 126m," *Daily News Egypt* (15 April 2012)

70   McDermott, Anthony. 1988. *Egypt from Nasser to Mubarak, a Flawed Revolution* (London, New York, Sydney: Croom Helm, 1988), p. 82; Saleh S. Abdelazim, *Structural Adjustment and the Dismantling of Egypt's Etatist System* (doctoral dissertation, Virginia Tech University), November 2002, p. 77, at: http://scholar.lib.vt.edu/theses/available/etd-12232002-083424/. .

71   Manual for the government's privatization program (1996), cited in Ali Abusalah Elmabrok Mohammed, Ng Kim Soon, Abdalla Ab Sinusi Saiah, Abdul Talib Bin Bon, "Lessons Learned from the Experiences of Privatization in Some Countries with Different Economies (Special Reference to the Experience of Privatization in Egypt)," *International Journal of Research and Reviews in Applied Sciences*, Vol. 12, No. 2 (August 2012), p. 259, at: http://www.arpapress.com/Volumes/Vol12Issue2/IJRRAS_12_2_13.pdf.

accountability. From the end of 1990 till 1996, local governorates disposed of more than 1,700 of their 1,850 small businesses such as agricultural projects, poultry units, dairies and retail outlets.[72] These privatization targets prioritized the already profitable enterprises.[73]

A parliamentary decision in June 1996 allowed foreign banks to own more than 49% of the capital in banking joint ventures, and lifted a long-standing ban on foreigners owning real estate. Legislation passed in 1996 also allowed the private sector to build roads and bridges, providing that both foreign and local entities may build, administer and maintain roadways for periods of up to ninety-nine years.

In turn, Egypt's privatization promised increased access to international finance. The World Bank considered that the application of structural adjustment programs in 1991 was a pivotal point in Egypt's modern economic history.[74]

The combination of measures and developments reduced the two historical roles of the state: development and social welfare. This "state shrinkage" coincided with divesting local and regional administrations and the absence of local government of cities and towns.

Furthermore, explaining the systems and structures under which public companies, office was set up for business, and then formed a committee chaired by the Prime Minister with the participation of Minister of Public Enterprise and the

Office Technical Department, to recognize and monitor the implementation of the privatization program. The conduct of the privatization program became the responsibility of holding companies, using both local and foreign consultants.[75]

Without effective regulation, moves toward privatizing the water sector risks placing further obstacles on access to safe water and sanitation. Although water production formally remains state-owned, a draft water law bill, proposed in 2010, paves the way for private investment in the sector (USAID: 2012, 29). As noted by the Special Rapporteur, Egypt does not have a functioning regulatory framework for the water sector. In this context, privatization likely will increase prices, as already witnessed, and further deny equal access to increasingly scarce water (Joint NGO, 7).

Governing Cairo

Cairo forms part of a national governance system comprised of five layers of administration. The topmost tier of subnational administration is the governorate (محافظة *muḥāfaẓah*, in Arabic, plural محافظات *muḥāfaẓāt*), of which Greater Cairo comprises three: Cairo Governorate, Qalyubia Governorate and Giza Governorate. A governorate is administered by a governor, who is appointed by the President of Egypt and serves at the president's discretion.

For administrative purposes, the country's 27 governorates are subdivided into four layers: The region, or *markaz* (مركز, plural *marākiz*, مراكز) consists of a capital city, other cities if they exist, and villages. Today, Egypt has 167 rural *marākiz*. The Prime Minister of Egypt appoints the chiefs of *marākiz*. Below the *markaz* is the city, or *madīnah* (مدينة, plural *mudun*, مدن).

72   Info-Prod Research (Middle East), Ltd., "Prospects for Economic Growth," (Tel Aviv: 1996), at: http://www.infoprod.co.il/country/egypt1d.htm.

73   For example, privatization programs included the sale of shares in the profitable Kabo/Nasr Clothing and Textiles; United Arab Spinning and Weaving; Egyptian Electro-Cables; Alexandria Portland Cement; Helwan Portland Cement; Amreya Cement; al-Ahram Beverages; Madinet Nasr Housing and Development and Egyptian Dredging Co. In the agricultural sector companies included Wadi Kom Ombo Land Reclamation Co., Egyptian Akkaria Co., Arab Co. for Land Reclamation and Behera Co. In the chemicals sector, privatized companies included Alexandria Pharmaceutical & Chemical Industry, Misr Chemical Industries, and Nile Pharmaceutical and Chemical Industries.

74   The World Bank, "Egypt, Social and Structural Review. Social and Economic development Group, Middle East and North Africa Region" Report No. 22397-EGT (20 June 2001), p. 6.

75   Ali Abusalah Elmabrok Mohammed, Ng Kim Soon, Abdalla Ab Sinusi Saiah, Abdul Talib Bin Bon, "Lessons Learned from the Experiences of Privatization in Some Countries with Different Economies (Special Reference to the Experience of Privatization in Egypt)," *International Journal of Research and Reviews in Applied Sciences*, Vol. 12, No. 2 (August 2012), at: http://www.arpapress.com/Volumes/Vol12Issue2/IJRRAS_12_2_13.pdf.

Each governorate contains at least one city. Some *marākiz* are subdivided into village (*qariya*) units (قرية, plural *qura* قرى).

A city/*madīnah* is made up of constituent neighborhood or *hay* units (حي, plural *ahya'* أحياء) is the smallest local unit in urban communities. However, districts differ from one governorate to another in size, population and political and economic circumstances. In addition to this, districts used to be further divided into the subdistrict neighborhood called *shaykha* (خيش, plural *shayākha*,شياخة), which were considered of a better size for efficient delivery of certain services.

Traditionally, Greater Cairo's governorates contained a total of 40 *ahya'*. Cairo Governorate had 30; Giza Governorate had eight and the City of Shubra al-Khayma (Qalyubia) had two. In addition, some areas of Giza and Qalyubia were classified as rural,which were divided into *marakiz*, with five in Giza and four in Qalyubia.

Until 2008, Greater Cairo included all of Cairo Governorate, plus urban parts of Giza and Qalyubia Governorates. However, in May 2008, a presidential decree established the new governorates of Sixth of October and Helwan, carved out of Giza and Cairo Governorates, respectively. Now, Greater Cairo technically comprises all or part of five distinct governorates.

These changes have not significantly altered the civic order or mode of governance, nor has it brought democratic participation closer to the inhabitants. While the serial constitutions and practice in the Arab Republic of Egypt does not allow for "local government," except for a brief experiment in the 1970s,[76] it has been the tradition for military men appointed by the executive branch of central government to administer the country's governorates.[77]

Informal Settlement
Formal Settlement
Governorate Border
River Nile

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76   In 1975, President Anwar al-Sadat introduced an experiment in local administration, granting elected council members the right to question central decisions affecting their constituencies (*istijwāb*), and to demand information (*ihāta*) from the central government and to call for no-confidence vote. In 1979, Law 43/1979 revoked rights, the economic restructuring policy proceeded unquestioned.

77   While some recent exceptions to this military rule can be found, currently all governors are presidential appointees from the military (25) or police (2). David D. Kirkpatrick and Mayy El Sheikh, "Appointment of 19 Generals as Provincial
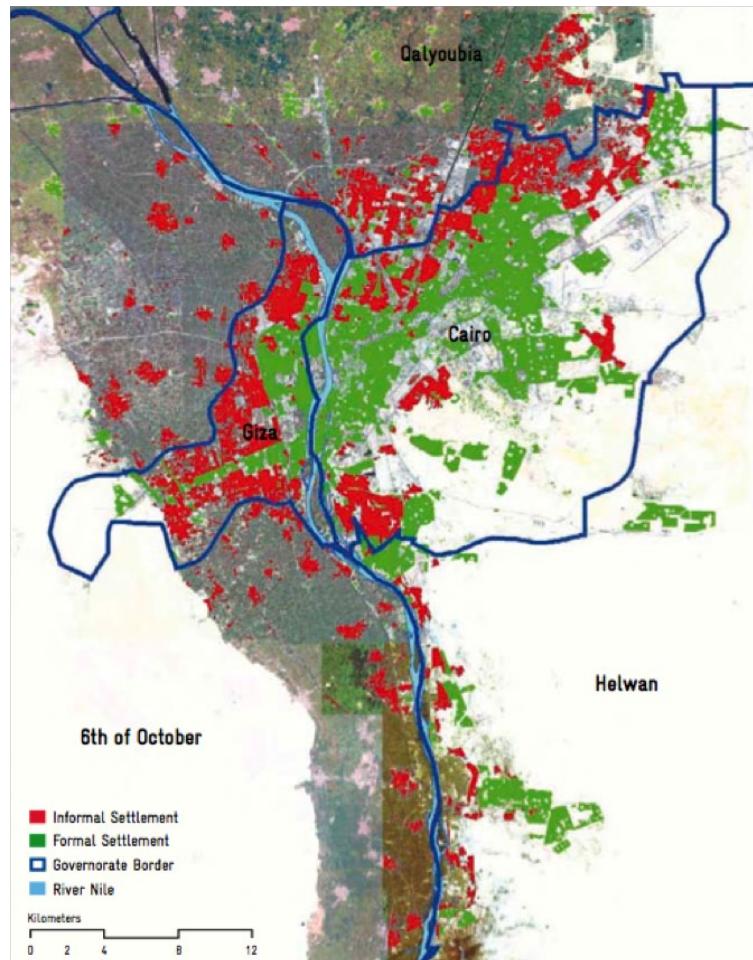
The average Greater Cairo inhabitant lives under an impermeable administrative apparatus in charge of political representation and service provision. Public administration in Greater Cairo, for instance, is so opaque that it is rare to find a

Governors Raises Fears in Egypt," *The New York Times* (13 August 2013), at: http://www.nytimes.com/2013/08/14/world/middleeast/egypt.html?_r=0.

Cairene who knows the name of the administrator in charge of her/his local neighborhood, or which administrative or political authority is responsible for solving a particular problem.

While 70% of the world's city dwellers have elected mayors, administrative units in Cairo are staffed and run by appointees and bureaucrats named by the executive branch of the central government. The appointed governor is the key figure in the administrative system, while presidents of urban districts (*ahya'*) divide responsibilities and authority under him.[78] Most governors since 1952 have been high-ranking noncommissioned military officers, owing to a security-centered approach to interior government.

Municipalities are dependent on the central government to provide 80–92% of financial allocations.[79] The percentage of the state budget going to municipalities stagnate around 11%[80] of the local budget, a significantly low proportion compared to the global average for emerging economies, estimated at 20–30%.[81] Poor funding and lack of autonomy have rendered local administration to become extensions of the central authority, limited to the management of economic and social services, practicing autonomy from the central government only in minor issues.[82]

Levels of urban governance
Central – executive branch of the Government of Egypt
Governorate – representative of the President of Egypt
District – appointed and elected officials
Neighborhood – (ambiguous since 2011)

Overall public investment fell from around 15% of GDP, in 1998, to some 8% by 2005.[83] The state expenditure on local government is only about 12% of the total budget, which allotment accounts for about 92% of all resources available for local government. Local communities have no authority to legislate or levy taxes and fees through their elected councils to support services or local development. Since most of their governing powers were revoked in 1979, elected local councils have no authority to question appointed civil servants, demand information from them, or call for a vote of no confidence. Local self-determination is not an operational principle of internal statecraft, including resource allocation, thus eroding the effectiveness of local government. A survey for the Council of Ministers by the Information and Decision Support Center in 2005 found that 52% of respondents were unaware of the existence of their local councils.[84]

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78   The third-person masculine pronoun is used here, as governors in Egypt are invariably male.

79   Sarah Ben Néfissa, "Cairo's governance: ambiguity, legalities, informality, and mobilization. Cairo's city government: the crisis of local administration and the refusal of urban citizenship," in Diane Singerman, ed., *Cairo contested: governance, urban space, and global modernity*Cairo (New York: American University in Cairo Press, 2009), 177–98, at 188, 195; and Shawkat,*Social Justice and the Built Environment*, op. cit.

80   On average within a range of 10–14%.Shawkat, *Social Justice and the Built Environment*, op. cit., p. 21.

81   "The Right to Democratic Local Government in the Egyptian Constitution," Tadamun, December 2013, at: http://www.tadamun.info/2013/12/05/the-right-to-democratic-local-government/?lang=en.

82   "Local Government and Human Rights Reach the UN," *Land Times/*لواحأ ضرألا, [English and Arabic], Issue 8, (December 2013), at:http://landtimes.landpedia.org/newsdes.php?id=pGtn&catid=pQ==&edition=qg==.

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83   World Bank, "Egypt – Country assistance strategy," (20 May 2005), p. 1, at: http://wwwwds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2005/06/24/000012009_20050624102618/Rendered/PDF/321900rev3.pdf .

84   *al-Gumhuriya* (2006), cited in Sarah Ben Néfissa, "Cairo's City Government: The Crisis of Local Administration and the Refusal of Urban Citizenship," in Diane Singerman, ed., *Cairo Contested: Governance, Urban Space and Global Modernity* (Cairo: American University Press, 2011).

Representation and participation in development and other decisions at the community level is even more elusive for Cairo slums, or *ashwa'iyat*, and even the existence of the form of local administration is contingent upon official recognition. The probability of an informal area being included in a household survey of the Household Income, Expenditure and Consumption Survey is proportional to its size in the latest census. CAPMAS data are also the basis for the only existing Greater Cairo survey of informal, low-income areas. That survey selects the areas from the CAPMAS Master List of Greater Cairo "Slums," with already severely undercounted slum populations. The informal areas with relatively small populations are grouped with other nearby informal areas to form larger primary sampling units. The 2006 census produced lower-than-actual urban poverty-incidence rates, because it missed newly formed slum areas and because slum populations are growing as much as six times the rate of other, planned sections of the capital.[85] Undercounting slum populations means that they will have a much lower probability of inclusion in household surveys, which supply the basis for poverty line studies. In some instances, a slum may be undercounted in the Master List at 1/15th its actual population.[86]

Such undercounting affects political and budgetary decisions toward the provision of services and the provision of self-representation mechanisms. In the informal neighborhood of Bulāq al-Dakrūr, with some 1.5m inhabitants, is short 20–40 schools. The children are forced to commute to adjacent neighborhoods to find schools with space to absorb them. The result is massive overcrowding, with over 100 pupils per class.[87]

Other Greater Cairo communities are also institutionally devoid of local representation. The "new cities" that have been built on desert lands since the 1977 New Towns Program are undertakings of the New Urban Communities Authority of the Ministry of Housing, Utilities and Urban Development. Currently eight such new cities can be considered within Greater Cairo. They include Sixth of October, Tenth of Ramadhan, Fifteenth of May, al-Ùbūr, al-Shurūq, Sheikh Zayed, New Cairo and al-Badr. None has an elected local council, as each is administered by a governing council that reports directly to the Ministry.

In the practice of local administration are occasional other actors, whose roles are more-or-less informal. The Minister of Local Development sometimes is called upon to mediate and resolve conflicts between ministries, governorates, councils and civil servants, as the occasion presents itself. High Committee of Local Administration should meet at least once a year to solve coordination problems, but so far has *never* met.[88] Finally, under the previous regime, members of People's Assembly or Shura Council would intervene and exercise patronage as "super mayors" in particular situations. However, such extension of central government influence at the local level has no statutory basis.

With the 2011 uprising and the dismantling of the National Democratic Party (NDP), 97.7% of NDP partisans occupied the elected—if ineffective—local councils, as well as the local councils as such, have become decommissioned. This dismantling of the formal structures has left a void of local "governance," with local neighborhoods relying on technocrats and other civil servants to deliver services. In many neighborhoods and smaller subunits, local autonomy has been exercised through "popular committees" that have sprung up during January–February 2011. These social formations are of differing quality and character, ranging from religiously rigid and patriarchal to refreshingly progressive and inclusive. They are constitute some measure of popular will, and promise to have effect on the future shape of local governance as the legislative authorities

85   Marion Séjourné and David Sims, in World Bank, "Egypt: Urban Sector Update," Vol. 1 of 2 (Washington: World Bank, 2008).

86   Sarah Sabry, "Poverty lines in Greater Cairo: Underestimating and misrepresenting poverty," International Institute for Environment and Development (IIED) Poverty Reduction in Urban Areas Series Working Paper 21 (May 2009), p. 15

87   The chief of the government's General Organization of Physical Planning (GOPP) claims the need for 40 schools, while GIZ puts the number needed at 20. See UN Habitat, *Cairo: A City in Transition* (Nairobi: UN Habitat, 2011), p.79, note 175.

88   Ben Néfissa, op. cit.

are restored in the coming People's Assembly elections under the new Constitution.

Chapter Four of the 2012 Constitution was dedicated to the local governance, affirming its administrative and financial independence from the executive authority (Articles 186 to 195). However, the same section refers to local "administration" (*idāra*) a narrower concept than "government" (*hukm*), the ampler term referenced in the previous Constitution.

The new Constitution of 2014 follows suit (Arts. 175–83). The newest Constitution also establishes that local councils will be comprised of directly elected members, *as well as* executive-branch appointees, and provides no guidance to legislators on modalities of determining heads of local councils or governorates, either by election or executive appointment. These details are deferred to future lawmakers.[89]

At the same time, however, Article 176 provides that

the state shall ensure administrative, financial, and economic decentralization. The law shall regulate the methods of empowering administrative units to provide, improve, and well manage public facilities, and shall define the timeline for transferring powers and budgets to the local administration units.

The 2014 Constitution also establishes that "Local units shall have independent financial budgets" and that their resources "shall include, in addition to the resources allocated to them by the State, taxes and duties of a local nature, whether primary or auxiliary," following the same rules and procedures as the central government for the collection of public funds (Art. 178). Also notable is the prospect of citizen election of governors and heads of other local administrative units (Art. 179). However, this remains ambiguous and leaves open to future legislation

on the modalities and criteria by which such public figures may be "appointed or elected."

Essential to determining service delivery and related budgets in a district is proportional representation in the relevant decision-making bodies. However, with the undercounting the inhabitants of informal settlements (*ashwa'iyāt*, or "slums"), they are likely not to be "recognized" and, thus, excluded from self-representation.

The composite of administrative institutions and cultures in Cairo have created a yet-unresolved deficit in local government conducive to the exercise of the right to the city. The table below summarizes the dimensions of the urban governance crisis and consequences that pose a bundle of challenges for those pursuing the right to the city in Cairo.

Political institution crisis	Consequences
Excessive decentralization (Center abandons obligations & responsibilities)	Dysfunctional state and institutions/ powerless local admin.
Failed communication, lack of transparency, information	Delegitimization/distrust of govt. & authority (credibility gap)
Overlapping jurisdictions	Ambiguity & conflicts
Privatization of public goods & services	Poor services/infrastructure, living conditions
State violence	Fear and loathing
Force evictions	Deep losses and impoverishment
Flouted state obligations	Extreme individualism
Patriarchy	Discrimination/exclusion (♀)
Multiple "bosses"	Confusion, conflict
Local Councils powerless	Apathy
Corruption, waste, theft of public resources	Impoverishment
Private-sector dominance of development	Disparity
Participation denied	Apolitical populace/weak citizenship
No support (for SPH)	Informal, irrational decentralization
Ambiguous public administration	Ad hoc interim arrangements

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89   For further details, see Samir `Abd ul-Wahhab, "al-Idāra al-Mahaliyya fi Mashru` al-Dastūr al-Jadīd…Mulahidhāt `Āma" [Local Administration in the Draft of the New Constitution…General Observations], Bawābat al-Sharq [Eastern Gate] (20 October 2012), at: http://www.shorouknews.com/columns/view.aspx?cdate=20102012&id=dc4a83bd-b1bb-403b-aa9e-aaa973fafa4a.

Envisioning the Right to the City in Cairo

At the time of this writing, Cairo remains the center of much contestation over the public sphere. It is a time of much uncertainty, contradictory developments, social and political polarization and legal ambiguity. The uprisings of the so-called "Arab spring" have unleashed a set of collective claims and expectations that have no precedent, nor have they yet found their realization. That is all to say that Greater Cairo is not static. While old patriarchies and interest groups are reasserting themselves, so, too, are Cairo's people—and their cohorts across the region—daring to imagine that another world is possible.

Such an achievement will not come without tremendous work of both material and conceptual nature. As with any complex task, it is essential to get our theory right. While, for Cairo, the right to the city is very much a theoretical concept, that is precisely why it is timely and important.

This penultimate section identifies some of the developments, actors and opportunities that might bring that theory closer to reality. The good news is found in conditions within a variety of government institutions and civil society, international development actors and local *ahya'*. We will explore these potential right to the city change agents in reverse of that order.

Neighborhoods

Collapsed MENA regimes gave rise unforeseen spaces, social formations and rare chances for broad participation in public life at the local level. While the efforts of the transitional period from 2011 to the present have concentrated on reconstituting the functions, leadership and institutions of central government, the greatest prospect for change of behavior and of mind prevail at the local and neighborhood level. In the meantime, the absence of formal, homogenizing structures promises to enable new social formations to emerge with aspirations akin to the right to the city. Some of these new formations

actually have begun to incorporate the conceptual and verbal vocabulary of the right to the city in their local organizing.

The biggest challenge—and the greatest potential for transformation—remains in poor communities without experience at civil participation, but that are receptive to needed capacity to maintain solidarity, understand changing systems, make human rights practical and benefit from the new policy and legal contexts. They still struggle to make demands heard amid ongoing political processes, decisions and plans that affect them directly.

As a result of conditions of origin and mechanisms of election spontaneous grassroots and positive roles carried out by the neighborhood leagues and popular committees that have received recognition of their local communities as well as support to assume influential official roles during this transition period. In the process, communities are developing a taste of/for direct representative and self-expression that previously was not possible.

Some of these entities have emerged out of political considerations, some transformed into local "People's Committees for the Defense of the Revolution," and developed service work-style activities (street cleaning - fundraising for the development of public facilities, etc.).

For example, one of the earliest of these committees to emerge dates back to 2008, in the form of the People's Committee for the Defense of Imbaba Airport Land. This popular committee formed against the backdrop of the government plans seeking to evict the population on the pretext of economic development at the expense of the land-poor and underhoused community in the Cairo neighborhood of Imbaba. This social formation, most prominently comprised of political activists and jurists, has influenced later experiences of the spontaneous people's committees that have grown from the local base in the context of the 25 January "revolution."

Some of these popular committees have taken part in training proffered by human rights organizations of civil society with which they have found common cause. The purpose of these partnership has been to structure the articulation of urban-development ambitions in the language and methodology of human rights, in particular the criteria of state obligations under human rights treaties that the State of Egypt has ratified.

One notable example of this capacity-building effort was the engagement of popular committee representatives in the preparation of the collective Egyptian civil society parallel reports to the UN Committee on Economic, Social and Cultural Rights in its periodic review of Egypt in 2013. The specialized parallel report on Article 11 of the Covenant (the human right to adequate standard of living, including the human right to adequate housing) involved the participation of all of 10 informal popular committees from Greater Cairo.[90]

Other developments have seen the participation of neighborhood leagues in Maspero Triangle (central Cairo) in alternative planning to preserve and develop their *hay* under threat of forced eviction and depopulation at the behest of shadowy private developers and real-estate investors. In the rural areas of North Giza, farmers and public interest organizations have worked together to challenge a World Bank-financed power plant for the destruction it has caused to local environment and livelihoods. The grassroots authors of these struggles have articulated their positions and alternative proposals as rights claimed against the interests of others who aim to further impoverish and displace them.

International Development Actors

It remains a global ambition to find and realize right-based development actors. Many of the international agencies, from international finance institutions (IFIs) to UN specialized organizations, lack the essential normative framework of human rights, even though they may be UN Charter-based bodies or comprised of UN Charter-bound members.

The UN Charter sets out the tripartite purpose of the UN and its members in international cooperation. The composite of (1) peace and security, (2) forward development and (3) human rights often becomes diluted in operations.

However, at least one example is promising toward developing a right to the city culture in Egypt, although it is found in a pilot project in the al-Minya Governorate. The "Human security through inclusive socio-economic development in Upper Egypt" project is a multiagency project involving all of UN Women, the UN Industrial Development Organization (UNIDO), UN-Habitat, the International Organization for Migration (IOM) and the International Labour Organisation ILO). Starting in 2013, the project began in the third year in which Egypt effectively has had no local political structures (as explained above). The project supports citizen participation in "social forums" to arrive at a regional-development plan for a cluster of villages al-Minya Governorate. The ILO, the implementing agency with the clearest normative framework of labor conventions and norms, is focusing on providing skills and job placement with tripartism, involving organized labor, employers and government. The relevance of this project presupposes upstream impact and sustainability by providing an unprecedented indigenous example of citizen engagement in public life and a model for the Ministry of Local Development and the Ministry of Planning to appreciate distinction between "local administration" and "local government." The lessons learned from this experiment, if managed properly, could go far toward developing a right to the city model in Egypt that could be up-scaled and supported by both policy and practice.

Civil Society

While development and human rights communities have long operated without synergy or common criteria, that dichotomy has especially afflicted the civil society organizations (CSOs) in the Arab world, including Egypt. The special circumstance in the region feature a tradition of human rights programs that have focused exclusively on civil and political rights, as well as denouncing and defending against torture and related

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90   Popular Committee for the Defense of Imbaba Airport Land, al-Marg Youth Association, Nidal Movement, Island of Dar es Salaam Popular Committee, Popular Committee of Imbaba, Popular Committee for the Defense of the Revolution, Popular Committee of Qrunfil, Helwan Gardens Popular Committee, Popular Committee of Bulaq Abu al-`Aila, Maspero Youth Association.

abuses.[91] The related fields of economic, social and cultural rights (ESCR) related to housing and human settlements development have remained relatively underdeveloped until the turn of the 21st Century.

The emergence of the Egyptian Center for Housing Rights, the Land Center for Human Rights in Cairo, and the partnership of those and numerous other organizations with the Habitat International Coalition – Housing and Land Rights Network have seen the development of concepts developed globally and applied locally. This programmatic development has involved the application of concepts including and constituent to the right to the city. The social production of habitat, social function of property and the right to the city have gained considerable traction in the discourse of Cairo-based human rights CSOs since 2000.

The first collective Egyptian civil society parallel report to CESCR's initial review of Egypt came in the year 2000. This resulted in a model of collaboration and advocacy of ESCR resulting in three compatible parallel reports produced by 11 Cairo-based organizations.[92] With CESCR's combined second and third periodical reviews in 2013, the total number of cooperating organizations was 58 (Joint NGO: 2013).

All of these CSOs are now exposed to the right to the city concepts. However, among these and others, we can identify at least 28 CSOs and popular committees that are on record as using the right to the city in Greater Cairo. (See table below.)

Civil Society Organizations Exposed to, or Using the Right to the City
• **Ahmed Abdallah Ruzza Development Association**
• Amnesty International (Egypt)
• **Association for Health and Environmental Development**
• **Better Life Association for Comprehensive Development**
• **Committee for the Solidarity with Egyptian Peasants for Agrarian Reform**
• **Development Support Center Consultancy & Trading**
• **Egyptian Budgetary and Human Rights Observatory**
• **Egyptian Center for Civic and Legislative Reform (ECCLR)**
• **Egyptian Center for Collective Rights (ECCR)**
• Egyptian Center for Economic and Social Rights
• Egyptian Center on the Right to the City
• Egyptian Initiative for Personal Rights
• **Habi Center for Human Rights and the Environment**
• **HIC-HLRN**
• New Woman Research Center
• Socialist Lawyers Committee
• TadĐmun: The Cairo Urban Solidarity Initiative
• Takween
• 10 popular committees
Note: Organizations in **bold** type are Members of Habitat International Coalition – Housing and Land Rights Network

One of the most significant and articulate examples of the use of the right to the city in CSO discourse and advocacy came in the context of the 2013 deliberations toward the new Egyptian Constitution. This convergence of organizations cooperated in the preparation of a formal submission to the drafters of the new Constitution. Their document, "A Constitutional Approach to Urban Egypt," localizes the principles of the right to the city as a guidance note for future efforts to improve living conditions, urban development and governance in Egypt through the transition.

The localization of the concepts begins with the title, which translates from the Arabic literally as "Constitution of the Built Environment." It incorporates the Arabic term "al-`umrān" (العمران, the built environment) to convey a more inclusive concept, embracing also human settlements beyond the city. The term also resonates in Arab traditions as a term used by the 14th Century scholar Ibn Khaldun, who instructed

that, in statecraft, *"al-`adl asās al-`umrān"*(العدل أساس العمران), or "justice is the foundation of the built environment (i.e., the state/civilization)."

This articulation of the right to the city establishes a set of basic principles such that:

The State recognizes the "right to the city" for all inhabitants of Egyptian cities, and the people have the full right to enjoy the city and public spaces on the basis of the principles of sustainability, social justice, respect for different cultures, and the balance between the urban and rural sectors. The exercise of the right to the city rests on the foundations of democratic governance of the city, with respect for the social and environmental functions of the various properties and the city as a whole, with full exercise of the right of citizenship.

The collective document proceeds to explain the meaning of the Right to the Built Environment (*haq al-`umrān*, حق العمران):

The State recognizes the "right to the human settlement (al-`umrān)," for the entire population on the basis of the principles of social justice and sustainability, and respect for different cultures, and the balance between urban and rural areas. The exercise of this right rests on the basis of democratic management of urbanization, with respect for the social and environmental functions of various types of tenure within the following considerations:

- *Public social services and public utilities as the right of all inhabitants, and the State guarantees their provision and equitable distribution, sound quality, maintenance and availability.*
- *The State is committed to making available public spaces and State lands for [benefit and use] of the whole population without distinction or discrimination, as the State shall take the necessary measures to preserve this land and its social function and use for public purpose, which*

[principle] precedes the priority used to serve individual interests.

The "A Constitutional Approach to Urban Egypt" takes the opportunity to explain the meaning and value of social production of habitat (SPH) where it states:

The State is committed to providing the institutional environment and resources needed to process the social production of housing in the form of legal tools and financing, administrative, and technical support, land and raw materials at a reasonable price consistent with the [needs of persons with] low-income. The State recognizes the efforts of self-construction and supports housing initiatives and cooperatives, whether of individuals or families or organized and collective efforts in this area. Moreover, the State is committed to the fight against abuse and exploitation in rental relations in the context of ensuring the right to adequate housing for marginalized and most vulnerable.

Clearly this CSO initiative and articulation of the right to the city, human rights in the city, even more broadly as the human rights habitat, speaks to the state context that the city inhabits. However, this exercise also follows in the tradition of city-based human rights charters, while taking a page from the World Charter on the Right to the City and indigenizes its tenets.

Eight of these collaborating organizations that drafted "A Constitutional Approach to Urban Egypt" have come together to form a new Urban Reform Coalition. The Coalition identifies itself as concerned with

monitoring and reforming urban policies and practices in Egypt through research, coordinating the activities of various actors in the urban sphere and promoting collective organized efforts on the ground to achieve more efficient, equitable, and sustainable urbanization that achieves the basic principles of the Right to City and all human settlements.

Portrait of Ibn Khaldun

Government Institutions

Finally, the institutions of government in Egypt have not yet manifested general support for the right to the city or its principles, even in the most recent Constitution or the appointment of local administrators. The Ministry of Planning (MoP) remains aloof to lessons of other countries with experience in implementing the right to the city, fearing the potential contagion of federalism.[93]

At the time of this writing, it is far too early to predict the legislative outcomes of a parliament that has not yet been elected, particularly as local government so far has occupied such as low priority in the current transition across the region.

However, one bright light has begun to shine in the firmament of central government institutions with the creation of a new Ministry of Urban Renewal and Informal Settlements. This new executive body has assumed the functions of the former Informal Settlement Development Facility (ISDF) and holds a broader mandate to develop policy across the state's jurisdiction. Encouraging has been both the choice of minister and her mode of operation.

Minister Leila Iskander A champion of the people's right to a basic, dignified livelihood, Iskander has an award-winning background in development.

After a cabinet reshuffle following `Abd ul-Fattāh al-Sisi's ascension to the presidency—and her outspoken opposition to Egypt's use of polluting coal as former Minister of Environment—she now takes her right-based approach to a new field. Her integrated and nondiscriminatory view of Cairo is encouraging. She has eschewed suggestions of a contradiction between urban renewal and informal settlements, noting that "Cairo is two-thirds informal neighborhoods. So if we're going to talk about the formal part of the city or the informal part, it's one city" (*ScoopEmpire*).

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93   As explained by a MoP economic advisor to the minister, dismissing the Brazilian experience, in an interview with this writer, April 2014.

Cairo's Urban Reform Coalition is comprised of:

Al Shehab Foundation for Comprehensive Development: a group of youth, volunteers and activists interested in social work based on local communities within the Egyptian society.

Egyptian Association for Collective Rights: a nonprofit organization focused on land and water rights and the right to environmental justice. It works on protecting the peoples' rights to utilize public goods and seek environmental citizenship. Its constituents are primarily peasants, workers, and grassroots organizations.

Egyptian Center for Economic and Social Rights works through litigation, research, and advocacy on protecting and advancing economic and social rights in a variety of issues; ranging from labor rights, the right to education, health, housing, association and information, as well as issues of taxation, debt, privatization, trade, corruption and investment.

Egyptian Initiative for Personal Rights is an independent rights organization. It has worked on strengthening and protecting basic rights and freedoms in Egypt through research, advocacy and litigation in the fields of civil liberties, economic and social justice, democracy and political rights, and criminal justice.

Egyptian Center for Civil and Legislative Reform is a nonprofit civil foundation combining a group of volunteers and lawyers who believe in enhancing and establishing the human-rights culture and mechanisms in Egyptian society in cooperation with regional and local NGOs.

Habitat International Coalition is the global network for rights related to habitat. It works in the defense, promotion and realization of human rights related to housing and land in both rural and urban areas. HIC's Housing and Land Rights Network operates its regional program from Cairo.

TADAMUN: The Cairo Urban Solidarity Initiative encourages citizens to claim their right to the city through promoting realistic alternatives and solutions for existing urban problems and advocating for more democratic

In her four month in office, Minister Iskander has meet with civil society organization to listen to alternatives to the policies of the past 30 years. Moreover, she has visited the slums and collected the views of inhabitants to inform innovative approaches. While the new minister has her detractors, particularly at the level of old-guard governorates, her presence has augured change from urban business as usual.

Conclusions

The current transition in Cairo and the prospect for applying the right to the city are inextricably linked to the city's context within the state, the constitutional set-up and the many contentions that surround and pervade it. Given foregoing patterns and deeply entrenched practices, the political culture that the 2011 uprising sought to replace has not retreated into history. History has its continuity in Cairo.

The most encouraging initiatives are those that come from the popular level and civil society. While statist efforts to reconstitute central institutions, as well as important security and counterinsurgency concerns, dominate the political priorities, changes in visions and behaviors are more likely to come from the neighborhoods. With articulate and globally connected civil society's contributions to the popular discourse, the principles and perspectives of the right to the city movement instruct that vision, with the added benefit of success stories and practical examples from other regions.

While fissures of hope from the central authorities to transform Cairo into a human rights habitat are few and far between, the formula for change appears to require an admixture of local initiative and the practical solidarity of inter-regional and international solidarity. Beyond the short-term strategies of crisis management in the security state, the logic of the right to the city is an indispensable ingredient to bringing durable civility, the full exercise of citizenship and social justice to a city seemingly out of order.
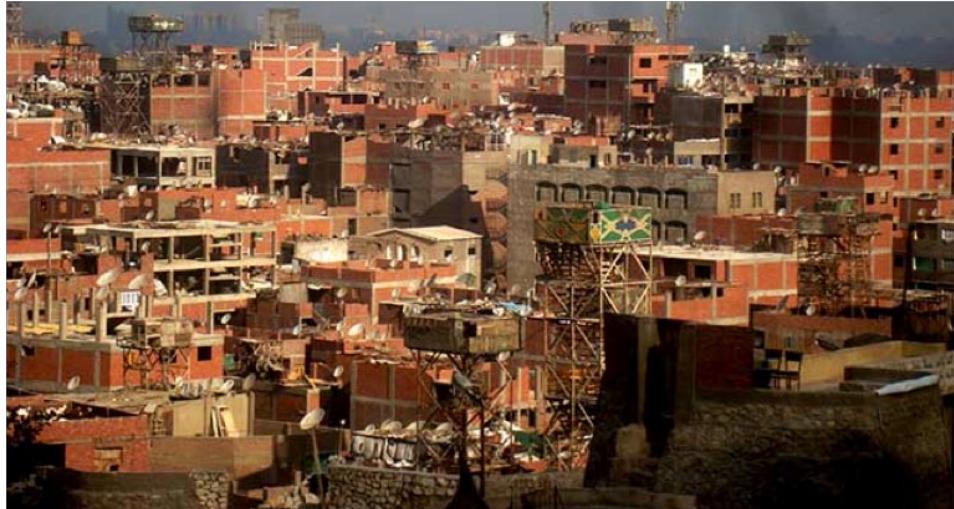
Social production of habitat dominates the skyline in many parts of Cairo

Annex I
Applicable International Norms
Local Application of Human Rights in the City

As a sovereign state in the international system, Egypt is a ratifying party to most of the key international human rights treaties. Those legal instruments all guarantee their application without discrimination, as rights are to be enjoyed by all humans within the jurisdiction or effective control of the state. Therefore, each right corresponds with obligations that the state has assumed to "respect, protect and fulfill" most human rights without distinction as to nationality, citizenship, residency or other status. Therefore, no human is "illegal" or without rights in Cairo, within the territorial state of the Arab Republic of Egypt.

Human rights norms and obligations are the responsibility of the State; however, its institutions include civil servants and authorities at every administrative level. Implementing the bundle of human rights and obligations to respect, protect and fulfill them is an inevitably local task.[1]

Human rights obligations and practical tools to implement them can serve local public services and political representation for the majority of citizens and noncitizens. While human rights law theoretically applies to all aspects of public life, the review of a State's performance of its human rights treaties requires local authorities to face dilemmas and choices within human rights norms.

The question of operationalizing human rights at the important local level has been a subject of Human Rights Treaty Bodies' general treaty interpretation and specific State party reviews. Notably, the Committee on Economic, Social and Cultural Rights (CESCR) advises States parties to the Covenant on Economic, Social and Cultural Rights to take steps "to ensure coordination between ministries and regional and local authorities, in order to reconcile related policies (economics,

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1   A/HRC/23/NGO/85.

agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant," in particular the human right to adequate housing.[2] CESCR also has observed how fees imposed by local authorities and other direct costs may constitute disincentives to the enjoyment of the right to education.[3]

The Harmonized Guidelines on Reporting to the Treaty Bodies advises involving local governmental departments at the central, regional and local levels and, where appropriate, at the federal and provincial levels in the preparation of periodic reports.[4] CESCR's current reporting guidelines are replete with questions for States about the progressive realization of economic, social and cultural rights through the rule of law, nondiscrimination, the maximum of available resources and international cooperation in the provision of local services and infrastructure.[5] This reflects the centralization of tasks, authorities and duties as a global practice of subsidiarity that diffuses burdens, responsibilities and functions.

The General Comment on the right to food stresses how responsibilities at multiple levels are essential to realizing that right. While "the State should provide an environment that facilitates implementation of these responsibilities," increasingly local measures are needed to ensure food security and food sovereignty. In recent years, numerous good practices and policy models exemplify the pivotal role of local decision making and preparedness to ensure the right to food[6] (DVRPC).

The Special Rapporteur on the Right to Food Olivier de Schutter also has noted the role of local government in ensuring realization of the right to food through an integrated national strategy.[7] (CBC)

This integration of central and local government performance is essential, too, to the realization of the human right to water and sanitation.[8] (CESCR, 15) The Independent Expert on the right to water and sanitation Catarina de Albuquerque has found a wealth of examples of good practice in which a State's holistic approach involves local government monitoring and implementation of that right[9] (Albuquerque, Albuquerque and Roaf).

Tool # 18 (April 2010), at: http://www.ruaf.org/ruaf_bieb/upload/3304.pdf; Victoria Local Governance Association, *Municipal Food Security Dimensions & Opportunities: Municipal Food Security Scanning Report* (2010), at: http://www.vlga.org.au/site/DefaultSite/filesystem/documents/Food%20Security/VLGA.2011-09-06%20Food%20Security%20Report%201.pdf; Kameshwari Pothukuchi and Jerome L. Kaufman, Placing the food system in the urban agenda: The role of municipal institutions in food systems planning (Kluwer Academic Publishers, 1999), abstract at: http://newruralism.pbworks.com/f/PothukuchiKaufman.pdf.

7   "Report of the Special Rapporteur on the right to food, Olivier De Schutter: Mission to Canada," A/HRC/22/50/Add.1, 24 December 2012, para. 16, at: http://www.srfood.org/images/stories/pdf/officialreports/20121224_canadafinal_en.pdf. In his country mission to Canada, the Special Rapporteur noted that "Numerous municipalities across the country have opposed this restriction [posed in the draft Comprehensive Economic and Trade Agreement with the European Union] on the ability of local authorities to promote urban-rural linkages and local economic development through institutional purchasing, and have requested exemptions." "UN food envoy scolds Ottawa's anti-poverty efforts," CBC News (3 March 2013), at: http://www.cbc.ca/news/politics/story/2013/03/03/pol-cp-un-food-envoy-slaps-ottawa-on-scrapping-census-and-eu-trade-talks.html.

8   CESCR General comment No. 15: "The right to water (arts. 11 and 12 of the Covenant)" (2002), para. 51.

9   Catarina de Albuquerque with Virginia Roaf, On the right track: Good Practices in realising the rights to water and sanitation (Geneva: OHCHR, 2012), at: http://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices_en.pdf; and "Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque: Mission to Egypt," 5 July 2010, A/HRC/15/31/Add.3, paras. 37, 45, 49, at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/149/35/PDF/G1014935.pdf?OpenElement.

2   General Comment No. 4: "the right to housing" (1991), para. 12.

3   General Comment No. 11: "Plans of action for primary education (art. 14)," para. 7.

4   "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents," HRI/MC/2005/3, 1 June 2005, para. 50, at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/422/26/PDF/G0542226.pdf?OpenElement.

5   "Guidelines on Treaty-Specific Documents to be Submitted by States Parties under Articles 16 And 17 of the International Covenant on Economic, Social and Cultural Rights," E/C.12/2008/2, 24 March 2009,

6   Delaware Valley Regional Planning Commission (DVRPC), The Greater Philadelphia Food System Study (2010), at: http://www.dvrpc.org/food/FoodSystemStudy.htm; DVRPC, *Food System Planning* Municipal Implementation

CESCR has observed that "violations of the rights...can occur through the direct action of, failure to act or omission by States parties, or through their institutions or agencies at the national and local levels.[10] Indeed, the gross violation of the right to adequate housing through forced eviction is often carried out by local authorities. The proposed Advisory Committee study could help further operationalize the UN Guidelines on Development-based Evictions and Displacement[11] (Kothari).

Many of the elements of an adequate standard of living without discrimination have been affirmed in international law through the International Labour Organisation (ILO), since 1919, the United Nations Organization, since 1945, and serial conventions on international humanitarian law, from The Hague Regulations (1907) through the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) and its Protocols. The human rights that apply in the urban context are enshrined in the nine principal UN human rights treaties.[12] Those legal instruments all guarantee their application without discrimination, as rights are to be enjoyed by all humans within the jurisdiction or effective control of the state. Therefore, each right corresponds with obligations that the state has assumed to "respect, protect and fulfill" most

human rights without distinction as to nationality, citizenship, residency or other status. Therefore, no human is "illegal" or without rights in Jerusalem, where Israel is the *de facto* jurisdictional state.

The state discharges these obligations under treaty law when it simultaneously applies seven over-riding and mutually complementary principles of application set forth in Articles 1 through 3 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[13] These include (1) ensuring self-determination of the peoples within it, (2) combating discrimination, (3) ensuring equality between the sexes, (4) effectively applying the rule of law to uphold rights, and (5) engaging in international cooperation, including effectively regulating external behavior of the state's constituents in accordance with the rights guaranteed in the human rights treaties that it has ratified.[14]

In the particular case of economic, social and cultural rights affecting living conditions, housing and land, the implementation measures are specified in treaty law to be "progressive" and to ensure that everyone has the capability to attain and sustain a living for herself/himself and her/his family to ensure (6) "continuous improvement of living conditions." ICESCR also requires that ratifying states (7) apply

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10   General Comment No. 16: "The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3)" (2005), para. 42.

11   "UN Basic principles and guidelines on development-based evictions and displacement," Annex I of the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, A/HRC/4/18, 5 February 2007, at: http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/4/18&Lang=E.

12   International Convention on the Elimination of All Forms of Racial Discrimination (1965); International Covenant on Economic, Social and Cultural Rights (1966); International Covenant on Civil and Political Rights (1966); Convention on the Elimination of All Forms of Discrimination against Women (1979); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); Convention on the Rights of the Child (1989); Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) (2006); Convention on the Rights of Persons with Disabilities (2006).

13   International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), 16 December 1966, 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966); 993 UNTS 3, entered into force 3 January 1976; International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), 16 December 1966, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976.

14   For further explanation of this point, see Charter of Economic Rights and Duties of States, A/3281(xxix), UN GAOR, 29th Sess., Supp. No. 31 (1974) 50; Olivier de Schutter, "Extraterritorial Jurisdiction as a tool for improving the Human Rights Accountability of Transnational Corporations," Faculté de Droit de l'Université Catholique de Louvain (22 December 2006); Sigrun I. Skogly and Mark Gibney, "Economic Rights and Extraterritorial Obligations," in Lanse Minkler and Shareen Hertel, eds., *Economic Rights: Conceptual, Measurement and Policy Issues* (Cambridge: Cambridge University Press, 2007).

"the maximum of available resources" in the implementation of human rights, including through international cooperation.[15]

Many of the elements of an adequate standard of living have been affirmed in international law through the International Labour Organisation (ILO) since 1919. However, the principal norm in the context of unrecognized villages in the Naqab arises from the human right to adequate housing, which, is a matter of principle and customary law is enshrined in Article 25 of the Universal Declaration of Human Rights (1948).[16] The human right to adequate housing is guaranteed by treaty in its fundamental form bearing state obligations in Article 11 of the International Covenant on Economic, Social and Cultural Rights (1966), which treaty Egypt ratified in 1982.

The legal definition of the human right to adequate housing[17] provides the normative content and its sources in international law, as well as clarifies state obligations and the elements of a violation. That normative content of the right and corresponding obligations defines housing "adequacy" consistent with the human right to include the following qualities:

a. Legal security of tenure[18];

b. Access to public goods and services, materials, facilities and infrastructure[19];

c. Access to environmental goods and services[20];

d. Affordability[21];

e. Habitability[22];

f. Physical accessibility[23];

g. Adequate location[24];

h. Cultural adequacy.[25]

In practice, the right to housing can be achieved only by respecting, protecting and fulfilling other complementary rights and applying corresponding state obligations that enable persons and communities to attain and sustain adequate living conditions.

Thus, the bundle of civil, cultural, economic, political and social rights are, in both theory and practice, indivisible. In addition to the qualities that affect the material dimensions of adequate housing, upholding certain other rights ensure the processes necessary for physically adequate housing. These include the human rights to:

• Self-expression, association, peaceful assembly and participation;[26]

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15   ICESCR, Article 2.1.

16   The Universal Declaration of Human Rights (UDHR) was proclaimed by the United Nations General Assembly in Paris on 10 December 1948, General Assembly resolution 217 A (III).

17   Committee on Economic, Social and Cultural Rights General Comment No. 4 "the right to housing" (1991) and General Comment No. 7 "forced eviction" (1997).

18   Legal safeguards that guarantee legal protection against forced eviction, harassment and other threats and the state's immediate measures to confer legal security of tenure upon those persons and households currently lacking such protection. See Ibid, para. 8(a).

19   Including safe drinking water delivery, sanitation, energy and emergency services essential for health, security, comfort and nutrition. See Ibid, para. 8(b).

20   Including natural and common resources, proper waste disposal, site drainage and land access for livelihood and recreational purposes. See Ibid, para. 8(c).

21   Such that personal or household financial costs associated with housing be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised, including the state's prompt measures to ensure that the percentage of housing-related costs is, in general, commensurate with income level. See Ibid, para. 8(d).

22   Whereas housing must be habitable, providing inhabitants with adequate space and protecting them from the climatic elements and other threats to health, structural hazards and disease vectors. See Ibid, para. 8(e).

23   So that everyone, particularly those with special needs, have full and sustainable access to adequate housing resources. See Ibid, para. 8(f).

24   Within reasonable access to employment options, services, schools and other social facilities, whether in urban or rural areas. Ibid, para. 8(g).

25   Corresponding to building patterns, methods and materials enabling the expression of cultural identity and diversity of housing. Ibid, para. 8(h).

26   Enshrined in Articles 19, 21, 22 and 25, respectively, of the International Covenant on Civil and Political Rights (ICCPR), which Israel ratified in 1991.

- Education, information and capabilities;[27]
- Physical security and privacy;[28]
- Freedom of movement and residence, *nonrefoulement* of refugees and reparations for victims of forced eviction and other gross violations;[29]
- Right to security of person and privacy.[30]

In addition to these covenanted norms, the international human rights treaties of specific application also enshrine the human right to adequate housing with all other categories of human rights. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted in 1965 and which Egypt ratified in 1967, requires that the state prohibit and eliminate racial discrimination and apartheid in all their forms, and "to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of…the right to own property alone as well as in association with others[31]… [and] the right to housing…"[32]

By its 1981 ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDaW), Egypt has guaranteed that women "enjoy adequate living conditions particularly in relation to housing sanitation, electricity and water supply, transport and communications."[33] That Convention also embodies the state's binding commitment to "take into account the particular problems faced by rural women and the significant roles [that] rural women play in the economic survival of their families…"[34] In rural areas, the treaty requires that Israel "take all appropriate measures to eliminate discrimination against women in rural areas, in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right to participate in the elaboration and implementation of development planning at all levels."[35] Notably, Egypt has not ratified the ILO Convention No. 141 on Rural Workers Organisations (1975).

The State of Egypt likewise has accepted the binding obligation under the Convention on the Rights of the Child (CRC) in 1990 to respect, protect and fulfill "the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development**.**"[36] This obligation embodies the commitment "to take appropriate measures to assist parents and others responsible for the child to implement this right and shall, in case of need, provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing."[37]

Egypt has not yet ratified several relevant international treaties establishing norms of policy and treatment toward certain vulnerable social groups, including relevant standards of remedy in the case of violation. However, Egypt has yet to ratify several key international treaties upholding human rights

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27   The rights to education (enshrined in Articles 13 and 14 of ICESCR), information (Article 19 of ICCPR), and particularly to uphold these rights so as to ensure capabilities of inhabitants to realize their housing rights.

28   Physical security (ICCPR, Article 9), including freedom from domestic and social violence, and privacy (ICCPR, Article 17).

29   (Article 12 of ICCPR), and the rights of victims of displacement to reparations, which includes the entitlements to remedy and reparation, entails restitution, return, resettlement, compensation, rehabilitation, the promise of nonrepetition of the crime and satisfaction that justice has been restored, as affirmed in general principles of international law and most-recently adopted in General Assembly resolution "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/60/147, 22 March 2006.

30   Articles 17 and 9(1), respectively.

31   Article 5(d)(v).

32   Article 5(e)(iii).

33   Article 14.2(h).

34   Article 14.1.

35   Article 14.2(a).

36   Article 27.1.

37   Article 27.3.

norms and procedures.[38] Significantly, as a member state of the African Union, Egypt also has not ratified significant treaties concerning governance, including the African Convention on the Conservation of Nature and Natural Resources (revised version, 2003); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003); the African Union Convention on Preventing and Combating Corruption (2003); the Protocol on the Statute of the African Court of Justice and Human Rights (2008); the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009); the African Charter on Democracy, Elections and Governance (2007)t; he African Charter on Values and Principles of Public Service and Administration (2011). Nonetheless, the 41 relevant human rights-related treaties that Egypt has ratified form a significant framework comprising the binding norms of statecraft in the form of treaty obligations to respect, protect and fulfill the human right to adequate housing without discrimination. (The relevant ratifications are indexed in Annex II.)

International human rights law theory maintains that a state's obligations under treaty are applicable in its domestic legal system, and that legislatures are bound to harmonize domestic laws consistent with those principles and obligations of human rights instruments. The Harmonized Guidelines on Reporting to the Treaty Bodies advises involving local governmental departments at the central, regional and local levels and, where appropriate, at the federal and provincial levels in the preparation of periodic reports.[39] CESCR's current reporting guidelines are replete with questions for States about the progressive realization of economic, social and cultural rights through the rule of law, nondiscrimination, the maximum of available resources and international cooperation in the provision of local services and infrastructure.[40] This reflects the decentralization of tasks, authorities and duties as a global practice of subsidiarity that diffuses burdens, responsibilities and functions.

The Vienna Convention on the Law of Treaties (1969), to which Egypt acceded in 1982, is substantially a codification of customary international law providing that "a state is obliged to refrain from acts [that] would defeat the object and purposes of a treaty when it has undertaken an act expressing its consent thereto."[41] The Convention also provides that a state "may not invoke the provisions of its internal law as justification for its failure to perform a treaty."[42]

With respect to the requirements of treaty implementation, the UN Committee on Economic, Social and Cultural Rights (CESCR) repeatedly has expressed its concern about "the massive housing problems faced by the Egyptian population"…" exacerbated by the deregulation of rents and an acute shortage of low-cost housing." The Committee also has noted that "forced evictions without alternative housing or compensation have been occurring in poor communities,"[43] reminding the State party of its obligations under Article 11 of the Covenant and refers to its General Comments No. 4 on the right to adequate

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38   Among the standards that Egypt has not yet accepted are: ILO Convention No. 11 Right of Association (Agriculture) (1921); ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989); Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008); Convention for the Protection of All Persons from Enforced Disappearance (2006); Individual complaints procedure under ICERD, Art. 14; Optional Protocol to ICCPR; CCPR-OP2-DP, aiming to the abolition of the death penalty; Individual complaints procedure under CaT, Art.22; Optional Protocol to CEDaW; Optional protocol to ICESCR; Individual complaints procedure under CMW, Art. 77; Optional Protocols to CRC; Optional protocol to CRPD; Convention on the Nonapplicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968).

39   "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents," HRI/MC/2005/3, 1 June 2005, para. 50, at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/422/26/PDF/G0542226.pdf?OpenElement.

40   "Guidelines on Treaty-Specific Documents to be Submitted by States Parties under Articles 16 And 17 of the International Covenant on Economic, Social and Cultural Rights," E/C.12/2008/2, 24 March 2009,

41   Article 18.

42   Article 27.

43   "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Egypt," E/C.12/1/Add.44, 12 May 2000, para. 22.

housing and No. 7 on forced evictions, to guide the Government's housing policies.[44] Specifically, CESCR has recommended that "the State party ensure that persons affected by forced evictions have access to an adequate remedy, restitution of their property, and compensation, as appropriate."[45]

To date, Egypt has not developed any legislation or policy prohibiting forced evictions. The practice is not frequent, particularly where authorities defer evictions that might raise further social-control problems. However, when government bodies and official commit forced evictions in Greater Cairo, they are often violent and deeply impoverishing in their effect.

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44 Ibid., para. 37.

45 "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Egypt," E/C.12/EGY/CO/2–4, 29 November 2013, para. 20.

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For example, during the second Intermediate Period (2000–1570 BCE), the noblemen of Thebes led a revolt against the Hyksos kings (ca. 1650 BCE), ultimately overcoming them and founding their own native 18th Dynasty.

The Ikhshidid dynasty of Egypt ruled from 935 to 969. The Abbasid Caliph Muhammad had appointed bin Tughj al-Ikhshid, a Turkic slave soldier, as governor. The dynasty carried the Arabic title "wali," ruling on behalf of the Baghdad-based Abbasids. The Ikhshidid dynasty end with the Fatimid army's 969 A.D. conquest of Fustat.

See Table 1. "Refugees, asylum-seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern to UNHCR by country/territory of asylum, end-2006," UNHCR Statistical Yearbook 2006: Trends in Displacement, Protection and Solutions (Geneva: UNHCR, December 2007), at: http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?id=478ce34a2&tbl=STATISTICS.

UN data indicate 9,307 Egyptians sought asylum in other countries as of end-2006. £Table 2. Refugees, asylum-seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern to UNHCR by origin, end-2006" (updated 12 March 2008), at: http://data.un.org/DocumentData.aspx?id=69.

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Ahmed Soliman, A Possible Way Out: Formalizing. Housing Informality in Egyptian Cities (Lanham MD: University Press of America, 2004), p. 119.

Article 179 of the Egyptian Constitution of 2014 provides: "The law shall regulate the manner in which governors and heads of other local administrative units are appointed or elected, and shall determine their competences."

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Such that personal or household financial costs associated with housing be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised, including the state's prompt measures to ensure that the percentage of housing-related costs is, in general, commensurate with income level. See Ibid, para. 8(d).

Whereas housing must be habitable, providing inhabitants with adequate space and protecting them from the climatic elements and other threats to health, structural hazards and disease vectors. See Ibid, para. 8(e).

So that everyone, particularly those with special needs, have full and sustainable access to adequate housing resources. See Ibid, para. 8(f).

Within reasonable access to employment options, services, schools and other social facilities, whether in urban or rural areas. Ibid, para. 8(g).

Corresponding to building patterns, methods and materials enabling the expression of cultural identity and diversity of housing. Ibid, para. 8(h).

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Articles 17 and 9(1), respectively.

Article 5(d)(v).

Article 5(e)(iii).

Article 14.2(h).

Article 14.1.

Article 14.2(a).

Article 27.1.

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Among the standards that Egypt has not yet accepted are: ILO Convention No. 11 Right of Association (Agriculture) (1921); ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989); Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008); Convention for the Protection of All Persons from Enforced Disappearance (2006); Individual complaints procedure under ICERD, Art. 14; Optional Protocol to ICCPR; CCPR-OP2-DP, aiming to the abolition of the death penalty; Individual complaints procedure under CaT, Art.22; Optional Protocol to CEDaW; Optional protocol to ICESCR; Individual complaints procedure under CMW, Art. 77; Optional Protocols to CRC; Optional protocol to CRPD; Convention on the Nonapplicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968).

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McDermott, Anthony. 1988. Egypt from Nasser to Mubarak, a Flawed Revolution (London, New York, Sydney: Croom Helm, 1988), p. 82; Saleh S. Abdelazim, Structural Adjustment and the Dismantling of Egypt's Etatist System (doctoral dissertation, Virginia Tech University), November 2002, p. 77, at: http://scholar.lib.vt.edu/theses/available/etd-12232002-083424/.

Manual for the government's privatization program (1996), cited in Ali Abusalah Elmabrok Mohammed, Ng Kim Soon, Abdalla Ab Sinusi Saiah, Abdul Talib Bin Bon, "Lessons Learned from the Experiences of Privatization in Some Countries with Different Economies (Special Reference to the Experience of Privatization in Egypt)," International Journal of Research and Reviews in Applied Sciences, Vol. 12, No. 2 (August 2012), p. 259, at: http://www.arpapress.com/Volumes/Vol12Issue2/IJRRAS_12_2_13.pdf.

Info-Prod Research (Middle East), Ltd., "Prospects for Economic Growth," (Tel Aviv: 1996), at: http://www.infoprod.co.il/country/egypt1d.htm.

For example, privatization programs included the sale of shares in the profitable Kabo/Nasr Clothing and Textiles; United Arab Spinning and Weaving; Egyptian Electro-Cables; Alexandria Portland Cement; Helwan Portland Cement; Amreya Cement; al-Ahram Beverages; Madinet Nasr Housing and Development and Egyptian Dredging Co. In the agricultural sector companies included Wadi Kom Ombo Land Reclamation Co., Egyptian Akkaria Co., Arab Co. for Land Reclamation and Behera Co. In the chemicals sector, privatized companies included Alexandria Pharmaceutical & Chemical Industry, Misr Chemical Industries, and Nile Pharmaceutical and Chemical Industries.

The World Bank, "Egypt, Social and Structural Review. Social and Economic development Group, Middle East and North Africa Region" Report No. 22397- EGT (20 June 2001), p. 6.

Ali Abusalah Elmabrok Mohammed, Ng Kim Soon, Abdalla Ab Sinusi Saiah, Abdul Talib Bin Bon, "Lessons Learned from the Experiences of Privatization in Some Countries with Different Economies (Special Reference to the Experience of Privatization in Egypt)," International Journal of Research and Reviews in Applied Sciences, Vol. 12, No. 2 (August 2012), at: http://www.arpapress.com/Volumes/Vol12Issue2/IJRRAS_12_2_13.pdf.

Annex II
Egypt's Ratification Status of Relevant Treaties

UN Human Rights Treaty	Signature Date	Ratification Date*
CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		25 Jun 1986 (a)
CAT, Art.20 - Inquiry procedure under the Convention against Torture		25 Jun 1986
CCPR - International Covenant on Civil and Political Rights	04 Aug 1967	14 Jan 1982
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women	16 Jul 1980	18 Sep 1981
CERD - International Convention on the Elimination of All Forms of Racial Discrimination	28 Sep 1966	01 May 1967
CESCR - International Covenant on Economic, Social and Cultural Rights	04 Aug 1967	14 Jan 1982
CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		19 Feb 1993 (a)
CRC - Convention on the Rights of the Child	05 Feb 1990	06 Jul 1990
CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		06 Feb 2007 (a)
CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography		12 Jul 2002 (a)
CRPD - Convention on the Rights of Persons with Disabilities	04 Apr 2007	14 Apr 2008
International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)		13 Jun 1977(a)
* accession(a), succession(d) date;		

International Labour Organisation Conventions**	Signature date	Status
C029 - Forced Labour Convention, 1930 (No. 29)	29 Nov 1955	In force
C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	06 Nov 1957	In force
C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	03 Jul 1954	In force
C100 - Equal Remuneration Convention, 1951 (No. 100)	26 Jul 1960	In force
C105 - Abolition of Forced Labour Convention, 1957 (No. 105)	23 Oct 1958	In force
C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	10 May 1960	In force
C138 - Minimum Age Convention, 1973 (No. 138) *Minimum age specified: 15 years*	09 Jun 1999	In force
C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)	06 May 2002	In force
C081 - Labour Inspection Convention, 1947 (No. 81)	11 Oct 1956	In force
C129 - Labour Inspection (Agriculture) Convention, 1969 (No. 129)	20 Jun 2003	In force
C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	25 Mar 1982	In force
** Fundamental ILO Conventions Nos. 29, 87, 98, 100, 105, 111 and 182; governance (priority) Conventions 81, 129 144; for ratification of technical Conventions, consult ILO NORMLEX, at: http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102915.		

OAU/AU Charters, Conventions and Protocols	Signature Date	Ratification Date*
African Convention on the Conservation of Nature and Natural Resources	15 Sep 1968	06 Mar 1972
OAU Convention Governing the Specific Aspects of Refugee Problems in Africa		12 Jun 1980
Cultural Charter for Africa		26 Jun 1978
African Charter on Human and Peoples' Rights	06 Nov 1981	20 Mar 1984
African Charter on the Rights and Welfare of the Child	Jul.01.1990	Nov.29.1999
Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	30 Jun 1999	09 May 2001
African Convention on the Conservation of Nature and Natural Resources (Revised Version)	-	-
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	-	-
Protocol of the Court of Justice of the African Union	23 Apr 2004	06 Jul 2006
African Union Convention on Preventing and Combating Corruption	-	-
Charter for African Cultural Renaissance	02 Nov 2009	-
African Youth Charter	16 Oct 2010	-
African Charter on Democracy, Elections and Governance	-	-
Protocol on the Statute of the African Court of Justice and Human Rights	-	-
African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa	-	-
African Charter on Values and Principles of Public Service and Administration	-	-
League of Arab States Treaties		
Arab Charter on Human Rights	-	-
* accession(a), succession(d) date;		

The Right to the City: Jerusalem

Joseph Schechla

The context of conquest, demographic transformation and segregation makes realizing the "right to the city" a distant prospect in Jerusalem. However, notable Palestinian and Israeli parties still strive to promote and operationalize right to the city (R2C) values. As in previous centuries, Jerusalem also constitutes a focus and occasional staging area for resistance to occupation, continuous displacement and colonization. However, these daunting historical, political, institutional and military characteristics of Jerusalem also make urgent the application of R2C concepts for their transformative and problem-solving effects. In order for the residents to achieve well-being in the city, as well as for the wider states of Israel and/or Palestine to meet their domestic and international legal obligations, this study analyses the legal, institutional and civic features of Jerusalem within the framework of the right to the city principles. The presentation of the anatomy of this unique city concludes with an assessment of strategic entry points and possibilities for integrating the right to the city in a shared capital, as officially foreseen as an outcome of the sporadic negotiation processes at the diplomatic level, or any civil future.

Historic Introduction to Jerusalem: From Sanctuary to Segregation

Located on a plateau in the inland hills between the Mediterranean and the Dead Sea, Jerusalem is one of the oldest continuously inhabited cities in the world. During its long history, Jerusalem has been destroyed twice, besieged 23 times, attacked 52 times, and captured and recaptured 44 times (Cline).

Today, it is considered holy to the three major Abrahamic religions – Judaism, Christianity and Islam.[1] Amid countless other sanctuaries in the region, the place named Ūrū Shalīm in the Sumer language arose in historic Canaan as a historic house of deities. Amorite priests founded the village,[2] and the Jebusites maintained and developed it. Later stories of the reign of King David (1007–967 B.C.) have dominated recorded memory of Jerusalem internationally, if not the indigenous historical narrative.[3]

Following long agricultural and commercial marginalization, Jerusalem became significant with the arriving migrants displaced in the Assyrian conquest of Galilee in the 8th Century B.C. With its 7th Century B.C. integration into the Assyrian Empire, Jerusalem suddenly grew 15 times its size into a 15,000-population covering 60 acres. Seventeen generations after the legendary King David, King Josiah reportedly banned all worship except for that at the Hebrew Temple of Jerusalem, and monotheism took root in the western Fertile Crescent, as it earlier had done in the Zoroastrian east. Ever since, the city's religious identities have come to dominate definitions of its demographic space, amid repeated cycles of occupation (Finkelstein and Silberberg, 239–40).

Babylon's conquest of ancient Palestine and a war with Egypt culminated in the 586 B.C.E. destruction of Jerusalem, its religious, royal and municipal structures, the capture of some thousands of elites and artisans.[4] The Neo-Assyrian conquerors reportedly left internecine chaos and only the most-impoverished inhabitants behind. Those events also re-establishing the myth of Jerusalem and its surroundings as an empty land (or, rather, political vacuum) suitable for colonization (Carroll, 79–93; Barstad, 28).

In the same century, Cyprus the Great decreed the first human right of return for those whom the Neo-Assyrians forcibly had displaced. His successor, Darius I, also contributed to the city's reconstruction.

With subsequent conversions to Judaism, Christianity and Islam, the faithful of the region and beyond attributed exalted status to the city, not least as an object of control for competing religious communities. Byzantine control gave way to prosperity as an urban center under Greek and Roman reigns. Its prominence rose especially after Christianity became the Roman Empire's official religion in 325 A.D. and the Church of the Holy Sepulcher was established. Jerusalem also prospered after the advent of Islam in 636 AD, especially after `Abd ul`-Malik bin Marwãn and his son, al-Walīd, constructed al-Aqsa Mosque at the end of the 7th Century.

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1   According to the Biblical tradition, King David established the city as the capital of the united Kingdom of Israel and his son, King Solomon, commissioned the building of the First Temple there. However, no archaeological evidence supports the Bible reference to Solomon's Temple. At the dawn of the 1st Millennium BCE, people of Jewish faith attributed central symbolic importance to the city. The appellation of "holy city" the or "holy foundation" (שדוקה ריע, transliterated *'ir haqodesh*) was probably attached to Jerusalem during the period of Cyrus Great. The holiness of Jerusalem in Christianity, conserved in the early *Septuagint* Latin translation of the Hebrew Bible, which Christians adopted as an authoritative reference, reinforced also in the New Testament account of Jesus's crucifixion there. In Islam, Jerusalem is the third-holiest city, after Mecca and Medina. In 610 CE, Jerusalem became the first *qibla* (the focal point for Muslim prayer). The Qur'ãn also records that the Prophet Muhammad made his Night Journey to Jerusalem ten years later, ascending to heaven where he spoke to God.

2   After being expelled from (Phoenician) Ugarit, the purportedly "extremist" religious community named the spot as the foundation (*ur*) of their Ugarit god of death/dusk (*Šalīm*). It later became an Egyptian administrative garrison and trading town (*Urshalimum*).

3   King David reportedly called the city "Yerushalayim" (1003 B.C.E.?), but the Aramaic pronunciation is "Yerushalem" and the Anglicized version became "Jerusalem."

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4   Estimated in various historic accounts between 4,600 and 20,000
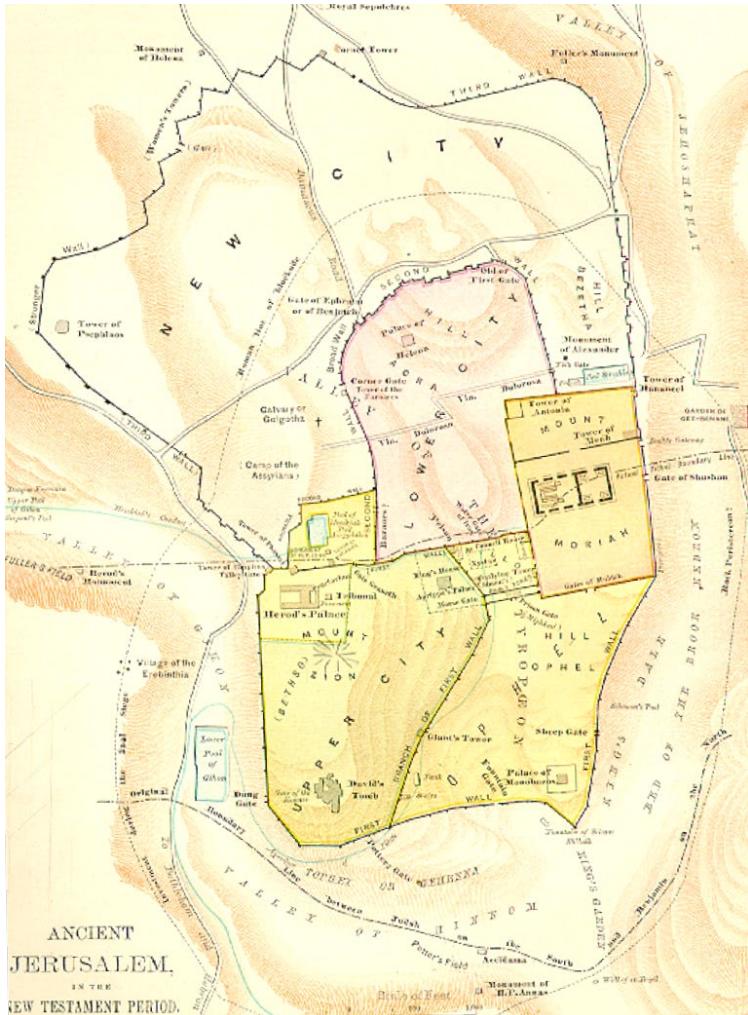
ANCIENT JERUSALEM, IN THE NEW TESTAMENT PERIOD.

the Holy Sepulcher was established. Jerusalem also prospered after the advent of Islam in 636 AD, especially after `Abd ul`-Malik bin Marwãn and his son, al-Walīd, constructed al-Aqsa Mosque at the end of the 7th Century.

Serial European Crusader invasions met Muslim resistance and ultimate liberation under Salah al-Dīn al-Ayūbī al-Kurdī. Jerusalem's indigenous social and physical character today still reflects the legacy of its Arabized liberators; however, many international parties have constructed institutions of worship that have both contributed to, and diversified Jerusalem's essentially Palestinian-Arab character.

The Ayubbid Dynasty ruled the city until 1229, when it came under yet another brief Christian rule, when Germany's Frederick II held Jerusalem until 1244. In 1260, the city came under Egyptian Mamluk rule until the last day of 1516, when Turkish Ottoman Sultan Salim I conquered the city. The Ottomans, especially Suleiman the Magnificent, developed the city further, reconstructing the city's gated walls, and modernizing the underground water system with public water sources (sabīls). To stress the importance of Jerusalem and the surrounding areas, Jerusalem became the second city, after Istanbul, to undergo municipal reforms and, in 1847, the Ottomans transformed Jerusalem into the center of a special sanjaq, or administrative district, belonging to the Ottoman sultan.

Prior to 1850, Jerusalem's housing and population had been confined within the Old City walls. However, with the decline of Ottoman rule, the city resumed its status as an "international" city. By the end of the 19th Century, nine foreign consulates operated in Jerusalem, including those of the British, French, Russians, Spanish and the USA. When Palestine came under the British Mandate in 1917, the occupiers announced Jerusalem as the capital of Palestine, where they established the central departments of the Mandate Administration.

Ottoman and subsequent British occupations deeply transformed Jerusalem's spatial, institutional and legal features. However, the more-recent occupation by Israeli forces in two stages, in 1948 and 1967, has further transformed the city in ways profoundly altering demographics, culture, economy, governance, infrastructure and the built environment. Israel's

With subsequent conversions to Judaism, Christianity and Islam, the faithful of the region and beyond attributed exalted status to the city, not least as an object of control for competing religious communities. Byzantine control gave way to prosperity as an urban center under Greek and Roman reigns. Its prominence rose especially after Christianity became the Roman Empire's official religion in 325 A.D. and the Church of

acquisition of West Jerusalem by force in 1948 passed without any international challenge outside of the region, despite its illegality and the formal recognition of Jerusalem as an international zone (*corpus separatum*)[5] (UNGA: 1947).
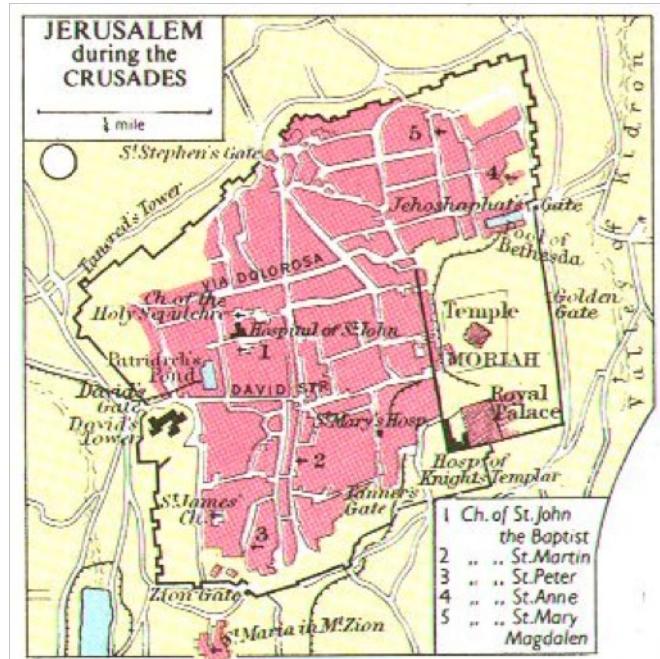
That invasion depopulated 39 Palestinian Arab communities of the Jerusalem area, dispossessing and expelling 97,949 of the indigenous people, confiscating 272,735 dunams of Jerusalemite Palestinians' land and untold properties and contents of Palestinian Jerusalemite family home (Tamari). This violent process of population transfer is commemorated as the Palestinian *Nakba* (catastrophe), which involved the expulsion and flight of some 780,000 (83%) of Palestine's indigenous inhabitants and Israel's destruction of over 500 depopulated villages that continued after the 1949 Armistice (HIC-HLRN: 2010).

Jordanian Hashemite rule after the Nakba made Jerusalem the second capital of Jordan in 1959. However, the 1967 War between Israel and Arab states involved Israel's further military invasion and occupation of East Jerusalem, causing the further uprooting of some 400,000 Palestinian inhabitants of Jerusalem and its West Bank hinterland,[6] in addition to the refugees from the 1948 population transfer. Israeli destruction and confiscation of entire neighborhoods of the Old City directly after the 1967 War saw the demolition of homes and the forced eviction of approximately 5,000 Palestinians in order to create space for a new and expanded Jewish Quarter. This included the destruction of 125 Palestinian homes in the Mughrabi Quarter to make way for a plaza for Jewish prayer next to the Western Wall (foundation of the Noble Sanctuary, comprised of al-Aqsa Mosque and the Dome of the Rock). Many of the Jerusalem Palestinian inhabitants dispossessed and expelled from the Mughrabi Quarter in 1967 currently reside in the Shu`fāt Refugee Camp and in the northeastern parts of the city.

After Israel conquered East Jerusalem in the 1967 War, its formal annexation of East Jerusalem in 1981 was deemed null and void under international law. (UNSC: 1980). Since then, Israel has striven to transform Jerusalem into a demographically Jewish city by applying its domestic laws and institutions privileging legal and natural persons holding "Jewish national" status, at the material expense and disadvantage of the indigenous Palestinian Jerusalemites. Municipal governance processes pursue a four-part demographic-manipulation policy of (1) confiscating and destroying Palestinian property and (2) forbidding Palestinian construction and development, (3) denying Palestinians residence in their self-acclaimed capital and (4) constructing and expanding Israeli-Jewish settler colonies on Palestinian public and private property.

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5   As recognized in United Nations General Assembly resolution 181 XX, 29 December 1947.

6   400,000 is the total number of 1967 refugees, approximately half of them are persons already displaced once in 1948. The figure (350 – 400,000) is not for Jerusalem only, but for all of 1967 occupied Palestine.

Hours after conquering East Jerusalem in the 1967 war, Israeli authorities demolished the Arab Mughrabi neighborhood in the shadow of the Western Wall. Photo: Getty Images.

Israeli authorities have built at least 17 settler colonies on the confiscated properties and occupied lands of Palestinian Jerusalem and its surrounding villages, including those depopulated and demolished in the context of war and/or incrementally demolished subsequently. These lands and properties are now incorporated into an ever-expanding zone under the occupying Power's acclaimed Jerusalem Municipality jurisdiction. 80% of today's occupied Jerusalem municipal zone was not part of the city before 1967, but rather parts of Bethlehem and 28 other West Bank towns and villages.

Israel's policy of systematic and material discrimination against the Palestinian population has manifested in Jerusalem through the four-pronged policy of land expropriation, discriminatory planning criteria, prohibitive building laws and permissiveness toward Israel settlers. Like *apartheid* South Africa, Israeli occupation maintains a severe pass system, curtailing Palestinian movement into or out of the city. Jerusalemite Palestinians were accorded the legal status of "permanent residents" and are subjugated to discriminatory

laws, taxes and differentiated rights. Moreover, every year, Israel authorities revoke the resident status of hundreds of Palestinians in Jerusalem, reflecting a common tactic used to drive Palestinians out of their capital. However, unlike the foregone South African counterpart, the process in Jerusalem has involved waves of cross-border expulsion of the indigenous population, relying instead on immigrating Jewish and other foreign labor.

Palestinians officially demand that Jerusalem be shared, with the eastern portion of the city occupied by Israel in 1967 as the capital of their independent state. The official position of some Western governments supports dividing the city (although not necessarily along the lines that Palestinians prefer) and has predicated any eventual peace agreement on such an outcome. International law considers Jerusalem to remain an international zone (*corpus separatum*).[7] (UNGA: 1947). Indeed, the much-contested "two-state solution" to the seemingly intractable Palestine question envisages an Israeli Jerusalem (Yerūshalayim) that would function as Israel's capital, and a Palestinian capital of al-Quds (meaning, "the sacred"), contiguous with and integrally linked to development and service-delivery systems through a common development authority.

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7   UN General Assembly, "Future government of Palestine," Part III: City of Jerusalem, A/RES/181(II)(A+B), 29 November 1947; Division for Palestinian Rights, *The Origins and Evolution of the Palestine Problem: 1917–1988,* Part II 1947–1977 (New York: United Nations, 30 June 1979), p. 31. On 1 March 2001, Theodor Wallau, Germany's ambassador to Israel, sent a letter to Israeli Foreign Minister Ariel Sharon, reaffirming the European Union's longstanding formal support for Jerusalem's internationalization as outlined in UN General Assembly Resolution 181 (II), stating: "We reaffirm our stated position regarding the specific status of Jerusalem as a *corpus separatum*. This position is in accordance with international law." Palestine Information with Provenance database, at: http://www.corkpsc.org/db.php?eid=548.

Human Rights and State Obligations

Jerusalem is currently claimed by two internationally recognized states as their capital: Israel, as a borderless entity that Jewish settler proclaimed in 1948, and the State of Palestine, promised under British and UN responsibility and which the Palestine National Council declared on 15 November 1988, and since gained recognized as the 194th state within the UN System as of 2010.

However, Palestine does not have sovereignty in the exercise of self-determination in its territory. The State of Palestine is not yet party to any human rights treaties, whereas the occupying Power assumes effective control over land, territory and natural resources. As a sovereign state in the international system, Israel is a ratifying party to most of the international human rights treaties (see Annexes I and II).

Constitutional Provisions and Domestic Law

Israel has no formal Constitution. Despite Israel's proclamation of independence committing a Constituent Assembly to prepare a constitution by 1 October 1948, the 1948 Harari Decision (יררה תטלחה) adopted during the Israeli Constituent Assembly determined instead that the State of Israel would instead enact a series of Basic Laws[8] (Rozin, 251).

The Israeli legal system provides no clear rule determining the precedence of Basic Laws over regular legislation, and in many cases this issue is left to the interpretation of the judicial system. To date, Israel has enacted fourteen Basic Laws dealing with the government arrangements and fundamental rights and freedoms. The 1992 Basic Law: Human Dignity and Liberty declares that basic human rights in Israel are based on the recognition of the value of man, the sanctity of his life and the fact that he is free. It defines human freedom as right to leave and enter the country, privacy (including speech, writings, and notes), intimacy, and protection from unlawful searches of one's person or property. This law includes instruction regarding its own permanence and protection from changes by means of emergency regulations. However, neither this acclaimed pillar of the human rights regime, nor any other legislation in Israel prohibits discrimination.

Warfare and Lawfare

In 1948, Zionist colonial forces, with support from the World Zionist Organization/Jewish Agency for the Land of Israel (WZO/JA), conquered most of western Jerusalem, which the emerging State of Israel incorporated into its territory, driving out the majority of the indigenous Palestinian population there and in the Jerusalem's westward villages. Remnants of those communities took refuge in eastern Jerusalem, elsewhere in refugee camps or settled in and around Arab towns in Palestine's West Bank, or inside Israel. The new military and civilian state institutions proceeded to appropriate the lands, properties and possessions of the refugees, utilizing the parastatal WZO/JA and Jewish National Fund (JNF) to administer and/or redistribute these material gains according to their charters to serve people of "Jewish race or descendancy" (JNF, §3C).

Already in January 1949, the new Government of Israel (GoI) had signed over one million dunams[9] of land acquired during the conquest to the JNF to be held in perpetuity for "the Jewish people." In October 1950, the state similarly transferred another 1.2 million dunams to the JNF[10] (Granott, 107–11). The best estimate for the scope of titled lands that

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8   The delay and the eventual 13 June 1950 decision to legislate the constitution chapter by chapter resulted from the inability of the different "Israeli" social groups to agree on the purpose of the state, the state's identity, and its long term vision. Another factor was the opposition of the first Prime Minister David Ben-Gurion himself, including his refusal to determine the state's borders.

9   Or dönüm; i.e., one decare = 1,000 m².

10   The first JNF acquisition totalled 1,101,942 dunams: 1,085,607 rural and 16,335 urban; the second amounted to 1,271,734 dunams: 1,269,480 rural and 2,254 urban.

Israel acquired only from Jerusalem refugees during the military operations was 270,681 dunams (27 hectares) (UNCCP, 2) with properties having a net annual revenue of P£349,393 (at 1944/45 rates) (bid). A JNF spokesman explained in 1951 that the transfer to JNF title "will redeem the lands and will turn them over to the Jewish people–to the *people* and not the *state*, which in the current composition of population cannot be an adequate guarantor of Jewish ownership" (JNF: 1951, 32–33 emphasis in original).

Nationality, Citizenship and Israel's "Development" Organizations

The State of Israel maintains a unique system of dual-tiered civil status, which conveys the privileged status of "Jewish national and citizen" to its Jewish population and denies civil status or conveys inferior status to Palestinian citizens and residents within pre-1967 Israel and – due to the 1967 annexation and extension of Israeli law– also to Palestinians in occupied East Jerusalem. Under the 1952 Israeli Citizenship Law, that system provides "Israeli citizenship" based on four criteria: "return" (reserved for Jewish immigrants), residency (for Palestinians who remained in the country after Israeli's establishment in 1948), birth and naturalization (of non-Jewish immigrants and relatives of Israeli citizens). The Law annuls the citizenship held by Palestinians during the British Mandate and excludes all 1948 Palestinian refugees from civil status in Israel, making them stateless, thereby violating the customary rules of state succession. The 1952 law and a new law adopted in 2002 also prohibit naturalization and residency in Israel for persons from Arab and other neighboring nationalities categorized as "enemy countries, including Palestinians from outside Israel and the annexed Jerusalem" (LCEI). Finally, the status of "citizen" alone does not ensure equal treatment and, in fact, forecloses a bundle of economic, social and cultural rights that are for others claiming "Jewish nationality," wherever they may live.

That is, Israeli law establishes and maintains a civil status superior to Israeli citizenship, classified as "Jewish nationality," applicable in all aspects of life related to housing, land and economic life. That superior "Jewish national" status, available by way of descent from a Jewish mother or highly restricted conversion to the Jewish faith, entitles eligible persons to claim "Jewish nationality" and enter areas controlled by Israel, including all of Jerusalem, to claim rights and privileges over the indigenous Palestinians. They are explicitly foreclosed as non-Jews, whether citizens or not, Palestinian IDPs and refugees–indeed, the entire indigenous people–of historic Palestine.

The Israeli High Court has affirmed this fact of institutionalized discrimination on grounds of both legal judgment and state ideology. In the case of *Tamarin v. Ministry*

of Interior (1970), a petitioner sought to register his nationality as "Israeli," rather than "Jewish." The Court ruled: "there is no Israeli nation separate from the Jewish nation... composed not only of those residing in Israel but also of Diaspora Jewry." The President of the Court Justice Shimon Agranat explained that acknowledging a uniform Israeli nationality "would negate the very foundation upon which the State of Israel was formed" (HCJ: 1970).

The High Court decided on a more-recent legal challenge involving 38 petitioners before the courts since 2004. Finally, on 6 October 2013, the Court rejected the petition led by Uzi Ornan (90) after lengthy procedures that deferred and delayed a ruling on that petition for the State of Israel to recognize a common "Israeli nationality" (Cook: 2010 and 2013; Gorali, Neiman; Orman; White). In response to the Supreme Court ruling, the lead petitioner commented that "Only the Jewish majority has been awarded national rights, meaning that Palestinian citizens face institutionalized discrimination." Ornan added: "It tells the country's Arab citizens that they have no real recognition in their own country - that they will always be treated as foreigners and they will always face discrimination"[11] (Cook: 2010).

The Ornan case dramatizes an essential aspect of the Israeli state's segregation of rights. However, many Palestinian citizens of Israel do not welcome a struggle for a uniform "Israeli" nationality that supplants or negates their inherent own. Like failed conflict-resolution attempts, the invitation to the victim to shed her/his primordial and indigenous affiliation, is tantamount to nihilism. While citizenship rights and responsibilities theoretically must be uniform within the territorial state, the discrimination instituted on any other criterion delegitimizes the discriminating state in light of the UN Charter.

Israeli established a legal criterion of "Jewish nationality"; that is, belonging to a Jewish "nation" (*le'om yahūdi*). This concept is enshrined in the charters of mentioned Israeli state agencies, World Zionist Organization/Jewish Agency for the Land of Israel (WZO/JA), Jewish National Fund (JNF) and their subsidiaries, which were established for the purpose of colonizing Palestine. (The JNF charter also applies the terms "Jewish religion, *race* or origin/descendency" [emphasis added]) (JNF: 1953, §3C) Today, these parastatal organizations form the development superstructure of the state, assuming authority for many decisions involving land use, housing and "national" projects. The alienation of these organizations from the people they affect is cavernous.

While these parastatal institutions are organically part of the State of Israel today, as affirmed in its Status Law (1952) and Covenant with the Zionist Executive (1953, amended 1976), they claim to possess and manage 93% of all lands in Israel and Jerusalem (not counting direct and indirect holdings in the other occupied Palestinian territories). Their parochial charters also provide the fundamental principles referenced in much of Israeli legislation related to land use, housing, immigration and development. The Basic Law: Law of Return (1950), for example, establishes immigration for Jews as a "nationality" right not provided in the 1952 Law of Citizenship (*ezrahūt*), and effectively excludes as a class the indigenous refugees of Palestine dispossessed since 1947, including those expelled from Jerusalem, as well as all non-Jews.

The Israel Lands Law ("The People's Land") (1960) establishes that lands will be managed, distributed and developed in accord with the principles of the JNF and its discriminatory charter. The Israel Land Administration, also established in 1960, rested on four "cornerstones": Basic Law: Israel Lands (1960), Lands Law (1960), the Israel Land Administration Law (1960), and the Covenant between the State of Israel and the Zionist Executive (World Zionist Organization/Jewish Agency and Jewish National Fund). The Israel Land Council (ILC) determines ILA policy, with the Vice Prime Minister, Minister of Industry, Trade, Labor and Communications as its chairman, while the 22-member Council is comprised of 12 government ministry representatives and ten representing the JNF and its conditions of Jewish-only beneficiaries.

Recent legislation in the form of the Israel Lands Authority Law, Amendment 7 (2009) and a 2010 amendment of the British Mandate-era Land Ordinance (Acquisition for Public

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11   Cook, op. cit.

Purposes) (1943) introduced tactical adjustments to the land tenure system in Israel during the period of this review. The 2009 amendment authorizes more powers to the JNF in its special status and role in land management. It also establishes the Israel Lands Authority (ILA) (no longer "Israel Lands Administration") with increased powers, provides for the granting of private ownership of lands, and sets approval criteria for the transfer of state lands and Development Authority lands to the JNF.

The 2010 amendment "makes sure" that lands expropriated for "public use" do not "revert" to original owners and now can be transferred to a third party (likely the JNF). The 2010 legislation also circumvents the Israeli Supreme Court's precedent-setting judgment in the 2001 Karsik case (Karsik), which obliged authorities to return appropriated land to its former owners in the event it has not been used for the purpose for which it was taken.

According to the amendments, the JNF will continue to hold large representation in the Israel Lands Authority with six of 13 members (which also can function with just ten members). That ensures JNF's continued key role ensuring discrimination against indigenous Palestinians in the development of policies and programs affecting 93% of lands in Israel.

These recent amendments allow the state and the JNF to exchange lands, in order to facilitate "development" through the privatization of lands owned by the JNF in urban areas. Such a swap would have the state receive JNF-acquired land in urban areas that could be privatized, while the JNF would receive 50–60,000 dunams of land in the Galilee and the Naqab, where the indigenous population of Palestinian citizens of Israel remain most concentrated.

As in the past, the JNF agrees that the new Israel Land Authority (ILA) would manage its lands, whereas ILA is committed to do so consistent with "the principles of the JNF in regards to its lands" (Article 2). However, the 2009-10 amendments enable further circumvention of legal oversight and legislate against the equality in land use rights. As the JNF's charter excludes non-Jews from benefiting from its land or services, any such transfer of public land to the JNF prevents citizens' equal access to land. In other words, the state will be able more readily to "judaize" more land and discriminate against its non-Jewish citizens in Jerusalem—and elsewhere—by transferring these lands to the JNF.

The new 2010 law appears to prevent—or severely impede—Palestinian citizens of Israel from ever reclaiming their confiscated land. It forecloses such a citizen's right to demand the return of the confiscated land in the event it has not been used for the public purpose for which it was originally confiscated, if that ownership has been transferred to a third party, or if more than 25 years have passed since its confiscation. Well over 25 years have passed since the confiscation of the vast majority of Palestinian lands and properties, including those in Jerusalem. Meanwhile the ownership of large tracts of land has been transferred to third parties, including Zionist institutions such as the JNF.

The ILA rationalizes its policy of restricting bids for JNF-owned lands to Jews only by citing the domestic Covenant with the state and the JNF (1961).[12] Under that agreement incorporated into law, the ILA is obliged to respect the objectives of the JNF, which include the acquisition of land "for the purpose of settling Jews" (JNF: 1953, §3(1)). Thus, JNF serves as the state's subcontractor for discrimination based on a constructed "Jewish nationality" status, as enshrined in the JNF charter, and not Israeli citizenship.

This legal and institutional framework ensures that housing, land, immigration and development rights and values are exclusively for "Jewish nationals" to enjoy (Forman and Kedar, 809–30). Most indigenous inhabitants of Israeli-controlled areas are not Jewish, including East Jerusalem.

The same state-linked agencies of WZO/JA and JNF, the sources of the concept and administrative expression of "Jewish nationality," also operate as tax-exempt organizations in some 50 other countries as "charitable organizations" also to recruit persons of Jewish faith and/or their (consequently tax-exempt) financial contributions to carry out development on behalf of Jewish settlers (JAFI).

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12   Adopted following the Basic Law: Israel Lands (Israel Lands Administration Law, in 1960.

UN Plan for Jerusalem as a corpus separatum, 1947, and Israeli conquest of West Jerusalem.

Jerusalem: Territory and Demographics

After Israel occupied East Jerusalem in 1967, it never "legally" annexed the conquered territory, but rather extended the city's municipal boundaries to include 70 km^2 of Palestine's West Bank (comprising 6 km^2 of East Jerusalem's municipal boundary from 1948 to 1967, plus an additional 64 km^2 of West Bank territory). The Israeli parliament (Knesset) then adopted the affirming legislation[13] (Lustick, 200–15) that authorized application of Israeli law in these areas, despite prohibitions under international law governing occupation (Hague, §43).

The Israeli government expanded Jerusalem's municipal boundaries for two purposes: The territorial purpose compelled incorporation of the Old City and adjacent Jewish historical sites into Israel, establishing borders that facilitated the city's defenses at the country's extreme eastern frontier and complicated a future division of the city. The second goal was demographic, facilitating the implantation of settlers around the city to achieve a solid Jewish majority and administratively minimizing the indigenous population within Jerusalem's expanded boundaries.

For many Israelis, the enlarged borders of municipal Jerusalem, including the ancient center and the Palestinian/Jordanian city, plus an additional 28 Arab Palestinian villages, has been ideologically associated with the Holy City's sacred-pedigree character, overlooking other values and indigenous residents' interests. The "unification" of Jerusalem in both spatial and epic terms is perceived in official Israel as an eternal revival of a primordial pedigree and, therefore, "right."

Amid the aspiring Jewish state's claims of Jewish ascendency, the city is currently home to a variety of faiths and ethnicities, represented by its residents. Of the total 804,000 inhabitants in 2011, the demographic composition

Despite the obvious analogies, the forms of discrimination in Israel are distinct from those known in other places and times, as in apartheid South Africa or the "scientific racism" of the late 19ᵗʰ Century (Barkan). South African apartheid had established civil inequality through a crucial piece of legislation: the Population Registry Act, which some authors have referred to as the system's lynchpin (Dugard). That single law established a hierarchy of status on the basis of skin color, and imposed the separation of communities accordingly. Human rights, services and privileges in Israel are granted or denied not on the basis of a single legislative act or a single physiological feature, but rather through a series of laws and institutions dedicated to the exclusive benefit of those eligible for "Jewish nationality," regardless of whether or not those putative beneficiaries are actually citizens of the State of Israel.

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13   By amendments to two existing laws: "Law and Administration Ordinance" and the "Municipal Corporations Ordinance"), and the interior minister issued a corresponding administrative declaration, "The Jerusalem Declaration, 1967."

showed the following disaggregation, without distinction by "citizenship" status:

- 499,400 Jewish (i.e., *le'om* nationals")
- 296,000 Arab Palestinians (of various enforced distinctions)
  - 281,100 Muslim
  - 14,700 Christian
  - 200 Druze
- 9,000 unclassified (Fiske).

> "Right to the city": a slogan and claim of urban social movements to guide policies to be more equitable and inclusive, as an alternative to current policies and planning practices that lead to segregation, privatization and inequitable distribution of public goods and services. Henri Lefebvre is generally attributed as having developed the notion of a "right to the city" in his book, *Le droit à la ville* (Paris: Anthropos, 1968). Currently, the "right to the city" argument rests on a bundle of existing human rights, in addition to specific claims of right to access land, water, sanitation, transport and public space, as well as the concept of the "social function" of land, housing and related infrastructure and public goods and services. The "right to the city" is elaborated in the draft "Charter on the Right to the City," which developed out of the urban social movements in Latin America and spread through the World Social Forum.1

The Israeli occupation authorities never obliged the indigenous Palestinians of East Jerusalem to adopt Israeli citizenship and, instead, offered them the choice between citizenship and "permanent residency," a status that confers certain rights, including to social security and voting in municipal–but not "national"–elections. This semi-privileged status accompanies obligations to pay municipal tax (*arnona*, in Hebrew).[14] The majority has refused to become Israeli citizens; in the past ten years, fewer than 7,000 have applied (ICG: 2012b, 21).

At the same time, the demographic reality has not met the occupation authority planners' targets. After Israeli planners expanded the municipal boundaries in 1967, the Arab population was roughly a quarter of the city's total. Since then, it has grown to about 36% (over 290,000). From 1967 to 2010 Jerusalem's Jewish population grew by 155%, while the Arab population grew by 314% (Shragai, 5).

By 2010, a three-decade pattern of Jewish-Israeli population migration out of Jerusalem became the norm. The migration of adult Jewish residents in 2012 saw 7,300 people moving to the city (including 2,900 new immigrants), while 17,400 left (CBS,2013b). This, together with the enforced urbanization of the Arab population and the Arab population's natural growth rate in Jerusalem, has contributed to the decline of Jerusalem's Jewish majority. This unexpected trend recently has compelled Jerusalem's planning institutions to update the demographic objective and the population target in Jerusalem for the year 2020. Their reality check projected no longer 70% Jews and 30% Arabs, as the municipal government sought to maintain during the 1970s and 1980s. The readjusted policy officially now seeks a demographic "balance" of 60% Jews and 40% Arabs (of all faiths) (Shragai, 9).

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14 Though termed "permanent", residency can be revoked in a variety of circumstances, most notably when a resident can no longer prove that his or her "centre of life" is in Jerusalem. "East Jerusalem: Key Humanitarian Concerns, Special Focus", UN Office for the Coordination of Humanitarian Affairs – occupied Palestinian territory (OCHA-oPt), March 2011. Since 1967, 14,000 East Jerusalem Palestinians – just under five per cent of the current total – have had their residency status revoked, approximately half of them since 2005 when a sharp increase occurred, a policy referred to by Israeli human rights organisations as "quiet deportation". Israel maintains this policy today though revocations have dropped dramatically: in 2008 the interior ministry revoked the residency of nearly 4,600 East Jerusalem Palestinians while in 2010, the number dropped to less than 200. Ibid, 31 July 2011 Ibid. The ministry claimed that most of the revocations resulted from relocation abroad in which the individual in question was granted citizenship or permanent residency.

Urban-development Indicators

In 2012, 23% of Jewish residents of Jerusalem fell below the poverty line, while 60–78% of non-Jews were classified as impoverished (Alyan, et al.). Jews make up 48% of the Jerusalem labor force, compared to 38% of Arabs (Choshen et al.). East Jerusalem's drop-out rate waivers between 40% and 50%, but only at 6–7% in Jerusalem's Jewish areas (ACRI: 2008, 2012).

These social indicators pose a series of challenges to the Jerusalem Municipality and Israeli government institutions. These range from the operation of unauthorized schools to serve unmet educational needs in East Jerusalem, to various black market activities among drop outs. High poverty levels and their consequences also manifest as greater demands on employment and social services, as well as political disaffection.

Municipal Governance

Israel's overwhelming domination of Greater Jerusalem would suggest that the city's urban planning and service delivery reflect a coherent and agreed municipal plan. While a broad Israeli consensus has sought the solid integration of the city's East into the State of Israel, the municipal and central government public works have built some urban infrastructures with a long-term development vision. However, close observers have characterized the process as a scene of infighting, rivalries and competition among various political and bureaucrats who have rendered Israeli colonization policy more chaotic and internally contentious than is often imagined (Cidor, 2007).

In this mix, the Jerusalem Municipality is relatively weak, a characteristic that harkens back to the British Mandate, when local authorities confronted a city deeply riven between Arabs and Jews. The Municipality then eventually transferred power away from the mayor and the feckless municipal government to the British governor.

The Israeli Ministry of Interior eventually inherited those powers and, along with other Israeli central-government ministries, remains influential in many aspects related to the enjoyment of the city (Dumper:, 46, 99.[15]) For example, the Israeli Interior Minister is authorized to remove mayors, determine municipalities' zones of jurisdiction, and to approve their plans, including determination of the scope of their income and the distribution of land resources in them on a centralized statutory planning basis.

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15 Michael Dumper points out that the foreign affairs ministry is concerned with the status of Christians in the country; the religious affairs and defense ministries play central roles in the status of, and access to holy sites; and the housing, trade and industry as well as absorption ministries ensure space for their own development projects. See his *The Politics of Jerusalem since 1967* (New York, 1997), p. 46. Israel's National Planning Council acts under the aegis of the interior ministry and is composed of representatives from the housing, transportation, agriculture, trade and industry as well as tourism ministries plus representatives of various cities and relevant national institutions. The result, predictably, is gridlock. The District Planning Commission – which has veto power over municipal proposals – is plagued by many of the same problems. Ibid, p. 99.

Joint ventures involving central government and municipality also form a channel for national authorities to exert influence over developments (Dumper, 101–02).[16] This highly centralized grip on local developments renders the municipality without sufficient autonomy, while bearing the burden of delivering services to Jews and Arabs, east and west.

The Jerusalem City Council is comprised of 31 members. The mayor is elected, serves a 5-year term and is paid from municipal funds. His six mayor-appointed deputies are well paid (Cidor, 2007)[17] However, the 24 elected council members serve on a volunteer basis. Religious Jewish political parties traditionally dominate the Council. Most of the Council meetings are held in secret, holding only one public meeting per month.

According to Israeli jurisprudence (HCJ 1988),[18] the non-Jewish residents of East Jerusalem are considered as bearers of "licenses" for permanent residency, eligible to those who were counted in the population census of 1967. This status applies even to Palestinians who did not "enter" Israel, according to the language of the law; whereas Israel rather "entered" their communities and areas of residence. This imposed residency status actually forces Arab residents of East Jerusalem into a situation in which their right to continue living in their homes and to conduct normal life in the place of their birth and continuous residency subjects them to the constant threat of expulsion form the city.

Although it set out the four criteria for "citizenship" (*ezrahūt*) in Israel (birth, residence, marriage and immigration), the Law of Citizenship (1952) does not grant universal citizenship to the otherwise-qualifying residents of East Jerusalem. The law only theoretically allows individuals to receive citizenship under the four stated conditions; however, it does not apply generally to the residents of East Jerusalem. Under the Basic Law: The Knesset, Jerusalemite Palestinians do not have the fundamental civil right to vote or to be elected for central government institutions, including Israel's parliament (Knesset, § 5, 6). They are not allowed to carry Israeli passports.[19] They are entitled to vote and run in elections for the Jerusalem Municipality under the Local Authorities Law (Elections) (1965), but are statutorily ineligible to contest the position of Mayor LAL. An early proposal to incorporate the then-Jordanian administration's Jerusalem Arab council members into the occupation city council eventually failed (`Amirav, 104). In practice, most of the Palestinians of East Jerusalem boycott the municipal elections as an expression of their refusal to accept Israeli rule and an affirmation of their affinity with the indigenous Palestinian nationality. Moreover, Palestinian national leadership has rejected the option of Palestinians participating in the local Jerusalem elections (Klein: 2008, 134–136; Sasson, 34) One Arab citizen of Israel originally from inside the Green Line did run in the last Jerusalem City Council election (Prusher).[20] without success.[21]

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16   An example is the Company for the Reconstruction and Development of the Jewish Quarter. The Israel Lands Administration, a national institution, also plays a major role in the city. It is the city's largest landlord, having acquired 10,000 dunams (10 sq km) in 1948 and three times as much in 1967. The body is integrated with the Jewish National Fund, which means that land it controls must be used exclusively for the benefit of Jews. Ibid, pp. 101–02.

17   Between NIS36,000 and 46,000 (€7.455–9,525) per month.

18   The court rejected the petitioner's argument that his residency in Jerusalem constituted a status of "quasi citizenship."

19   Sections 2 of the Passport Law, 1952.

20   Fuad Sliman, running on the Meretz Party ticket.

21   Outcome of October 2013 municipal election:

Percentage	Total votes	Party	Party leaders
24.84%	53,208	United Torah Judaism	Yitzchak Pindrus
16.22%	34,747	Shas	Eliezer Simhayoff
13.82%	29,595	Jerusalem Will Succeed	Nir Barkat & Rami Levi
10.98%	23,525	Hitorerut	Ofer Berkowitz
7.37%	15,787	Yerushalmim	Rachel Azaria
5.6%	11,995	Meretz-Labor	Pepe Alalu
4.36%	9,334	United Jerusalem	Shmuel Shekdi & Arieh King
4.04%	8,649	Bayit Yehudi	Dov Kalmanovitz
3.37%	7,224	Bnei Torah	Haim Epstein
3.24%	6,943	Likud/Yisrael Beiteinu	Moshe Lion & David Amsallem
2.74%	5,865	Pisgat Ze'ev on the Map	Yael Antebi
1.41%	3,022	Neighborhoods & Businesses	Ofer Ayoubi

However, even these local decisions and municipal bylaws are subject to centralized authorities such as the Israel Lands Administration, which is responsible for local government. The Interior Minister has the power to remove mayors, determine municipalities' planning zones of the reach of municipal jurisdiction, approve municipal plans, including the determination of municipalities' income and the distribution of land resources in them through centralized statutory planning. These undermine the right to the city in Israel. While, in Jerusalem, the situation is subject to even more layers of control by central governmental committees, such as "The Ministerial Committee on Jerusalem" and a Minister for Jerusalem Affairs, which contradict municipal attempts to establish agencies and neighborhood committees that would enhance city dwellers' involvement in city management (Merhav and Giladi).

The combination of Israeli official actors in the City of Jerusalem, thus, has determined a development pattern that seeks to isolate and further dispossess Palestinians in advance of any peace agreement based on spatial sharing. By consequence, Jerusalem's Israeli population is also largely stripped of local decision making in many aspects of public life in the city of residence.

Planning and Development

Israeli planners have transformed Jerusalem over the decades since conquering the city in stages: the west side in 1948 and the east in 1967. Mostly, the changes have seen expansion of the municipal borders and the creation of Jewish neighborhoods expanding over its fringes in a four-leaf clover pattern. Significantly, too, is Israel's transformation of the city from the new state's easternmost urban extension, at the first rise of Palestine's Jabal al-Khalil and Jabal Nablus hills, to the center of a matrix of settler colonies that now extend over the whole of the West Bank.

In the inner ring of this matrix is the Israeli suburb of Mevaseret Zion, to the west, and three settlements extending into the West Bank: Givat Zeev, in the northeast, Maale Adumim, to the east, and Gush Etzion, on the southern edge, abutting Bethlehem. This area, known as Greater Jerusalem, is home to some 80% of all Israeli settlers.

Palestinians mostly recognize the existence of two cities in Jerusalem, separated by the cease-fire line of 1949. Alien West Jerusalem, located west of the line, with a total area of 53 km², next to East Jerusalem, located east of the line, with a total area of 70 km². Indigenous Jerusalemites consider their city the very material and spiritual heart of Palestinian city, and Palestinians—officially and popularly—consider Jerusalem as the capital of an emerging democratic state, alternative to Israel.

Planning legislation and procedures in Israel are based on the Planning and Building Law (1965), which came into force also in East Jerusalem following the 1967 War. The Israeli planning system itself is similar to a great many other planning systems in requiring a hierarchy of physical plans that public bodies are authorized to prepare and approve. Planning authorities require a building permit for any new construction, which is possible only if that construction arises from a participatory and representative planning process.

Official plans are developed at three scales: national, regional (district) and local. Local plans (also known as "outline" or "metropolitan" plans) normally follow district plans and precede development. The plans are spatially very precise and normally cover only existing or proposed urban areas. Such

Percentage	Total votes	Party	Party leaders
0.96%	2,056	Ometz Lev	Naomi Tzur
0.86%	1833	Tov L'Yerushalayim	Chanoch Werdiger
0.15%	331	Yesh Am Ehad	Amos Madar
0.04%	80	Veterans and Pensioners	Avraham Albert Tubul

plans are the responsibility of the local (i.e., municipal) council, failing which, the Regional Council undertakes the planning, and ll plans are subject to central government approval.

According to the 1965 law, building permits are needed for all new development, and must accord with the local plan. If no local plan exists, then the zone is covered by the regional plan. However, in practice, a regional plan is unlikely to sanction development that is not already the subject of a local plan. Where unpermitted development is identified, the owner may be required to obtain a permit, failing which either (a) the property may be demolished after notice is given, or (b) the owner may be required to demolish it himself, fined if he does not do so, and the authorities then demolish the property. In either case, the official reason given is normally "lack of a permit," and the owner is charged a fee for the demolition conducted by the state. These measures are most commonly applied to Palestinians in the city, while regional plans are strikingly more lenient in the case of unlicensed Jewish development.

In this context, across Jerusalem and its West Bank hinterland, Israeli various authorities have increased demolition of Palestinian homes by some 50% in 2013, over the previous year. This destruction of 663 structures in 2013 marks the highest rate in five years, including 122 structures built with international donor aid. With the greatest concentration of these demolitions in Area C and East Jerusalem, displacement of Palestinian inhabitants has increased by 74% over 2012. (*HIC-MENA News*, 2014a) Israeli official and unofficial actors have more than doubled the establishment of "outposts" (unauthorized colonies) in 2013, as compared with the previous year (*HIC-MENA News,* 2014b).

Planning and Development within the City

In consolidating control over East Jerusalem, Israeli planners created three more-or-less concentric belts of Jewish presence around the city. Some of these areas are outside Jerusalem's expanded municipal boundaries, but all fall on the western side of the route of the West Bank Wall that Israel began constructing in 2002.

Former Deputy Mayor of Jerusalem Meron Benvenisti wrote that "the ultimate arbiters of the character of the Holy City were not the mayor, the municipal council, town planners, architects and historians, but [central] government ministers." An early post-Conquest development plan for Jerusalem had announced that:

Any area in the city that is not populated by Jews is in danger of being cut off from Israeli jurisdiction and coming under Arab rule. Hence the administrative delineation of the municipal boundary must be translated into the language of deeds by building throughout the entire area, especially its farthest reaches. Jewish neighborhoods must not be left isolated: this consideration dictates the drastic reduction of open spaces in the city (Benvenisti, 154).

Palestinians typically refer to efforts at manipulating the population ratios in favor of a Jewish majority as "Judaization." That term, once used by Israeli planners and politicians to describe official policy, is mainly used by its critics today.

The municipality's planning capacities face a challenge to meet their responsibility of delivering services to Jews and Arabs alike. For reasons of efficiency, city hall reportedly has favored a "compact" city and service area, focusing on the development of core areas (Dumper, 47, 100-01). Meanwhile, the "national" ministries have sought a "horizontally extended" city. Amid these dynamics, the occupied East Jerusalem planning map has created three tactical urban belts.

The outer belt, around purported Greater Jerusalem, extends three suburban Jewish "ring" colonies—actually "fingers"—extending some 10 km from the city's municipal

boundaries into the West Bank. These colonies are: Givat Zeev in the north, Maale Adumim in the east, and Gush Etzion in the south (CBS).[22] While some may debate whether Jerusalem ought to be divided in an eventual future agreement, broad Israeli consensus asserts that the three main Greater Jerusalem settlements should be incorporated into the State of Israel, no matter what the (negotiated) settlement (Xinhua).[23]

A large residential zone within Jerusalem's current municipal boundaries forms the second ring of older settler colonies established in the late 1960s–early 1970s. This strategic chain includes Givat Ha-Mivtar, Maalot Dafna, Ramat Eshkol and French Hill. Those areas formerly connected West and East Jerusalem near Mount Scopus, a UN-protected Jewish enclave from 1949 to 1967. Jerusalem planners and state and parastatal institutions have expanded this middle belt in the 1970s–early 1980s with the the "Ring Neighbourhoods" (Neve Yaacov, Gilo, East Talpiot, Ramot Alon and Pisgat Zeev), encircling the Jewish and Arab city center (Klein: 2008, 56).

The innermost planning belt, encircling the Old City basin, is the site of the most-revered historical monuments and shrines. The principal agent of Jewish colonization in historic Jerusalem is not the municipality or the central government, but settler organizations. These typically involve registered charities and *yeshiva*s (Jewish institutes of religious learning) that enjoy government support in the form of archaeological, educational and touristic ventures. These organizations are occupying a contiguous pattern of Jewish colonies in and around the Arab Old City, consistent with the pattern of earlier Israeli planners seeking to complicate any Israeli withdrawal from the captured city.

Mr. Adi Mintz, an Elad Organization board member is frequently quoted as having said:

> [O]our goal is clear: To get a foothold in East Jerusalem and to create an irreversible situation in the holy basin around the Old City(Rapoport).

Yoni Ovadia, a settler spokesman in Nahlat Shimeon [Sheikh Jarrah], explained how Jewish residence would create: "territorial continuity to Maale Zeitim and Mt. Scopus"[24] Likewise, Matti Dan, chairman of the Ateret Cohanim Yeshiva, observed how

> the Kidmat Zion neighbourhood, in Abu Dis, can be seen from the Palestinian parliament. This neighbourhood will prevent all the [Yossi] Beilins and all the [Yasir] Arafats from turning Abu Dis into a mini-Gaza. The entire world wants to divide Jerusalem, including the United States. They do not even recognise the fact that Ramot [cited above] belongs to us. The soft belly of East Jerusalem is the Old City, the Mount of Olives and its East. Jewish settlement in these places is a more significant human shield than any wall or fence (Rotenberg).[25]

The firewall would be composed of Jewish housing—initially "micro-settlements" and (unauthorized) "outposts." and settler-operated national parks. These are small but numerous enterprises requiring an expansive security presence that curtails Palestinian life wherever they squat. The inner ring extends slightly beyond the Holy Basin, touching and expanding into the northern Sheikh Jarrāh and southern Jabal Mukābir Palestinian neighborhoods, to the peak of the Mount of Olives, to the east.

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22   Maale Adumim and Beitar Illit's populations are more than 35,000 and Givat Zeev has more than 11,500 residents. "Kovetz Yishuvim 2010," Central Bureau of Statistics (CBS).

23   Prime Minister Netanyahu left no question about where he stands: "Efrat and Gush Etzion are an integral, fundamental and evident part of greater Jerusalem …. They are the southern gates of Jerusalem and will always be part of the State of Israel. We are building them with enthusiasm, faith and responsibility."

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24   Channel 10, HaMakor, 10 November 2010.

25   Yossi Beilin is a former Israeli cabinet minister renowned for pursuing a negotiated settlement over Jerusalem with the Palestinian leadership. Yasir Arafat is the PLO leader and Palestinian president (d. 2004).

Despite the Oslo promises to freeze any alteration of the status of any territories within the Palestinian-claimed self-determination unit, or perhaps goaded by them, Israeli parastatal organizations, central government and municipal authorities built additional settler colonies at Ramat Shlomo, in the north, and Jabal Abu Ghunaym (renamed Har Homa), in the south, through the 1990s. These colonies continued the ring and filled gaps in the Jewish-colony encirclement of Jerusalem. Only a small gap in the east, between Mount Scopus and Jabal Mukābir, linked to Jerusalem's West Bank hinterland. Over two decades, Israeli construction in this belt has expanded and thickened Jewish residential zones.

The multiple layers of planning and execution of colonization efforts involve a variety or self-interested Israeli institutions. Israel's National Planning Council acts under the aegis of the Israeli Interior Ministry, and hosts representatives from the housing, transportation, agriculture, trade and industry, and tourism ministries, as well as representatives of various cities and relevant national institutions. The Regional Planning Commission—stacked with a Jewish Agency majority—has veto power over municipal proposals (Dumper, 46, 99).

Armed Israeli settlers circulate throughout Jerusalem under Isfraeli police and army protection.

Unique to Israeli planning and development in Jerusalem is the Company for the Reconstruction and Development of the Jewish Quarter. That agency boasts being the only fully Israeli government-owned company operating within the Old City. Its principle program since 199 is implanting Jewish settlers in the Old City of Jerusalem captured by force in 1967 (MoCH).

The Israel Lands Administration, a "national" institution, also plays a major role in developing the city. It is the city's largest landlord, having acquired 10,000 dunams (10 km^2) in 1948 and three times as much in 1967. (See explanation of refugee land and property transfers below.) The body is integrated with and follows the charter of the Jewish National Fund, which means that land it controls must be used exclusively for the benefit of Jews (Dumper, 101–02).

Land Acquisition in Jerusalem

The distinctive feature of the Israeli system, however, is that land is controlled not only through the planning system, but through Israel's unique land-tenure system, which is the product and beneficiary of the discriminatory principles of the JNF as mandatory under the 1953 and 1960 legislation, particularly as they apply to the Land Council, the Israel Land Authority (ILA). This is a crucial determinant in all land-development policy and planning decisions, affecting (a) the location and timing of major projects, and (b) the eligibility of citizens for individual plot allocations. Processes (a) and (b) take place in coordination with the preparation of the appropriate (regional or local) development plans.

However, as the plans are public documents, the ILA's strategy and input to the planning process are opaque. As noted above, the ILA is not simply a government body subject to the normal processes of democratic accountability, but is controlled by a council, half of whom are nominated by the Jewish National Fund, a parastatal institution whose charter commits it to discrimination in favor of "Jewish race or descendancy" (Kedar and Yiftachel, 129--296).

While the former British Mandate authorities had upheld the legal fiction that uncultivated land belonged to the state, the

State of Israel later assumed and embellished that notion as a means of acquiring lands under the color of law.[26] Israel's Land Rights Settlement Ordinance (1969) asserted that: "Lands, which at the time of the enactment of this law were classified as *mawāt*, will be registered in the name of the State" (Harris, 14–15). Defining all uncultivated land in Jerusalem District, in addition to other areas elsewhere, to be "state land," thus, under this single Ordinance, the state seized more than 61% of Israel's claimed territory and much of the surface area of East Jerusalem, regardless of its tenure status.

Following a decade-long phase of land confiscations and military rule after proclaiming the State of Israel, the newly formed GoI sought to make the acquisitions of lands and villages permanent with a modified policy toward the Arabs in Israel, as announced by David Ben-Gurion in 1959. The policy prioritized:

a. passage of a law to mandate settlement of the Bedouins and their transfer to permanent homes…

b. speedy solution of the problem of compensation to the "present absentees"[27] for their land;

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26   The Israeli courts ensured acquisition of land and other properties from Palestinians by interpreting British Mandate legislation in favor of state, including the *Transfer of Land Ordinance* (1921); *The Correction of Land Registers Ordinance* (1926); *Land Settlement Ordinance* (1928); *Town Planning Ordinance* (1936); *Defence [Emergency] Regulations* (1939), which the British later repealed); *Roads and Railways (Defence and Development) Ordinance* (1943); *Land (Acquisition for Public Purposes) Ordinance* (1943). The Knesset efficiently adopted complementary laws such as *Law and Administration Ordinance [Amendment] Law [1948]* to reverse the British repeal and reinstate these *Emergency Regulations; Area of Jurisdiction and Powers Ordinance* (5708-1948); *Abandoned Areas Ordinance* (5708-1948) ; *Emergency Regulations (Absentees' Property) Law* (5709-1948) ; *Emergency Regulations (Cultivation of Waste [Uncultivated] Lands) Law*, 5709-1949; *Emergency Land Requisition (Regulation) Law*, 5710-1949 ; *The Absentee Property Law* (5710-1950); *Development Authority (Transfer of Property) Law* (5710-1950); *State Property Law* (5711-1951); *World Zionist Organization – Jewish Agency (Status) Law*, (5713-1952); *The Land Acquisition (Validation of Acts and Compensation) Law* (5713-1953; *Jewish National Fund Law* (5713-1953).

27   Absentee: persons whose status is defined in Israel's Basic Law: Law of Absentees' Property (5710 - 1950) and applied both *retroactively* and prospectively for the State of Israel possession by confiscation properties (mostly to be administered by the Jewish National Fund and subsidiaries).

Those whom the Basic Law identifies as "absentees" include anyone who:
At any time during the period between 16 Kislev 5708 (29 November 1947) and the declaration published under Section 9(d) of the Law and Administrative Ordinance, 12 Iyar 5708 (21 May 1948), has ceased to exist as a legal owner of any property situated in the area of Israel or enjoyed or held by it, whether by himself of and another and who, at any time during the said period,
(i) was a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Transjordan, Iraq or the Yemen; or
(ii) was in one of these countries or in any part of Palestine outside the area of Israel; or
(iii) was a Palestinian citizen and left his ordinary pace of residence in Palestine for a place outside Palestine before 27 Av 5708 (1 September 1948); or for a place in Palestine held at the time by forces that sought to prevent the establishment of the state of Israel or that fought against its establishment."

Absentee property: a type of individual or collective possession denied to an indigenous class of inhabitants of Palestine through military and legislative events of the State of Israel's proclamation of establishment process.

Israel's Absentee Property Regulations (1950) vested possession of properties belonging to indigenous Palestinian Arabs in the "Custodian," which was an acquisitive function within the Israeli Finance Ministry in 1947, established well in advance of the Regulations. The Law of Absentees' Property (LAP) (see also "present absentee" below) provided the Custodian a new name, The "Custodian of Absentee Property" (CAP), also replaced the temporary and vague legal category of "abandoned" property with the better-defined and soon-to-be permanent category of "absentee property." The CAP possessed broad administrative and quasijudicial powers, as well as evidentiary and procedural devices, to seize property at CAP's own discretion, and ensured that the burden of proving "nonabsentee" status fell heavily on the newly dispossessed Palestinian Arab property holders.

The British *Trading with the Enemy Act* (1939), which created an extremely powerful property custodian and formally extinguished all rights of former owners, inspired the Israeli Absentee Property Regulations. Israel thus treated absentee property as State property, but the nature of the emergency legislation model from which the Israeli Absentees' Property Law derived also made it subject to long-term legal challenge.

Therefore, the State of Israel incorporated the ideologically Zionist protostatal institutions within the State under 1953 legislation, but maintained them arguably outside of "government." So, in order to retain the "absentee" properties and shed the potentially constraining State obligations governing the Custodian under general principles of public international law (see "obligations" above.), the State of Israel began transferring newly acquired properties—especially such properties acquired outside internationally recognized Israeli territory—to the parastatal institutions (Jewish National Fund, World Zionist Organization/Jewish Agency and their subsidiaries and affiliates) and, subsequently, other State-managed institutions that share the Zionist protostatal institutions' covenanted principles of Jewish-only

c. encouraging permanent Arab migration from the rural areas to the mixed cities (LAP).

The absence of land registration arrangements for East Jerusalem impedes proper planning and forms an obstacle to legal construction. The absence of formal land-registration arrangements and Israel's abstention from regulating the land in that part of the city encumbers the work of local planning authorities. It also is one obstacle to the East Jerusalem population's access to building licenses. Since the 1967 War the policy of the State Attorney General has expressed this denial of building permission through practical and diplomatic

explanations. However, the policy of refraining from resolving freehold tenure issues on most of the land of East Jerusalem also compounds the consequent "illegal" construction there. This neglect also undermines property rights and creates additional problems such as dual registrations and contradictory transactions that generate disputes and prevent mortgaging of properties where plot boundaries are not formally recognized.

Depopulated Palestinian Villages Converted to Jerusalem Parks				
No.	Village Name	Refugees (Dec 2002)	Current park	Park Developer
1	Allar	3,291	US Independence Park	JNF
2	Aqqur	131	Sataf Forest	JNF
3	Bayt 'Itab	4,848	Beit 'Itab NP / US Independence Park	JNF & NPA
4	Bayt Thul	2,147	Hakfira Forest	JNF
5	Bayt Umm al Mays	299	The Saints' Forest	JNF
6	Dayr Aban	18,150	US Independence Park	JNF
7	Dayr al Hawa	309	US Independence Park	JNF
8	Dayr ash Sheikh	1,064	Sorek River NR	JNF & NPA
9	Islin	2,071	Eshta'ol Forest	JNF
10	Jarash	1,603	Nahal Dolev NP / US Independence Park	JNF & NPA
11	Kasla	1,446	The Saints' Forest	JNF
12	Nataf	276	Kfira river NP	JNF & NPA
13	Qabu al	2,546	Begin Park	JNF
14	Qastal al	881	Qastel NP	JNF & NPA
15	Ras Abu 'Ammar	4,808	Begin Park	JNF
16	Saris	3,978	Rabin Park	JNF
17	Sataf	4,563	Sataf NP	JNF & NPA
18	Suba	4,590	Zova NP	JNF & NPA
19	Sufla	445	Nahal Dolev NR / US Independence Park	JNF & NPA
Total No. Refugees	57,446			

Legend:
JNF = Jewish National Fund, NPA = National Parks Authority, NP = National Park, NR = Natural Reserve
The number of villages whose land was expropriated by JNF wholly or partially is 372. JNF converted 116 villages into such parks as follows:
  • 71 parks planted on capital village land partly expropriated by JNF
  • 9 parks planted on non-capital villages similarly expropriated
  • 17 parks planted on capital village lands expropriated by the state
  • 2 parks planted on non-capital villages similarly expropriated
  • 16 parks planted on pre-1948 Jewish land
  • 1 park planted in Beer Sheba subdistrict (al-Naqab), an example of several such parks

presence in, and possession of the land, properties and productive resources contained in all areas of the Land of Israel (*Eretz Israel*), defined as the whole of historical Palestine.

The illegal transfer of Palestinian refugees' and internally displaced persons' (all "absentees') properties (see "Internally displace person(s)" above) to the Jewish National Fund (JNF) in exchange for revenues to the nascent colony was to a (then) off-shore England-registered entity, the JNF, which reunited with the State of Israel under the above-mentioned 1953 Knesset legislation. That transfer of "absentee property" took place over five years, after no standing party posed an international law challenge to Israel's territorial expansion beyond the 1947 Partition Plan (UNGA resolution 181 [II]). That omission is despite the fact that UNGA 181 was merely one of the General Assembly's contemporary nonbinding recommendations on the Palestine question, but submitted to a vote on 29 November 1947.

The "absentee property" lost in this gradual process is undetermined, but subject to reparation, including restitution, to Palestinian refugees and present absentees.

Present absentee: a person or descendant of a person living in Israel after 21 May 1948 with the "absentee" status created under the *Basic Law: Law of Absentees' Property of 5710/1948* (LAP), especially those consequently dispossessed; a dispossessed citizen of Israel. Technically, this status affected virtually all Arabs who exited their actual homes or other possessed or owned properties during the 1947–48 War of Independence/Conquest, regardless of whether they returned. Also technically, the legislative dispossession order covered most residents, indigenous Palestinian Arabs and Israeli Jews (LAP, Article 1[ii]). However, the LAP regulations embedded a clause that systematically exempted Jews from the law's intended dispossession. Consequently, tens of thousands of Arabs citizens who became citizens of Israel were dispossessed absentees, but practically no Jewish Israelis were. The dispossessed Arab citizens of Israel thus assumed the paradoxical legal identity and simultaneous materially dispossessed status of "present absentee."

Ultimately, this policy enables the takeover of urban land by brute force and numerous forgeries, the notorious tactics of Israeli settlers. Consequently, many residents, as well as public bodies, have been dispossessed of their properties. In such a chaotic planning environment, the municipality cannot—and does not—properly plan, omitting to carry out needed infrastructure works, construct public facilities such as schools, maintain sanitation, drainage, electricity, roads and other public facilities. Theoretically, the municipality cannot allocate land for public purposes without the need for expropriation and payment of compensation (Shragai, 7).

A New Master Plan

The Jerusalem Master Plan 2000 never was officially approved. Nonetheless, it serves as the basis for urban planning and maintains that the planners' original demographic goal is unachievable, and that even a more-modest 60:40 Jewish majority could be achieved by 2020 only under uncertain conditions (ICG, 5).

After serial deliberations on the new Jerusalem Master Plan led by Jerusalem's District Planning and Construction Commission Director Moshe Cohen, the Jerusalem Municipality ratified its deposit on 7 October 2008, pending objections by the public. A month later, following the election of Jerusalem Mayor Nir Barkat, the mayor requested that the District Commission grant him the option to voice his criticisms of the Master Plan prior to its deposit. In May 2009, Mayor Barkat appeared before the Commission and introduced a few changes. The Commission decided again to deposit the plan that the mayor also signed. However, within the ensuing year, other conflicts of interest arose, impeding any common or locally autonomous development vision (Shragai).[28]

The laws and policies that govern the distribution of land and development resources are a mixture of national legislation and planning ordinances. Most influential of these are the Land Acquisition Law (1943), which formed the basis for appropriating Palestinian and other private lands for "public interest" in order to construct 15 settler colonies in East Jerusalem. The Law of Absentee Property (1950) authorizes the Custodial of Absentee Property to take possession of lands and properties confiscated on the pretext that any one of its owners was absent during the 1967 census.

By planning decree, 40% of lands in Jerusalem have been declared "green areas," especially in East Jerusalem, where Palestinian residents are prohibited from building. These lands supposedly reserved as public green spaces, were later used for Israeli Jewish colonization, notably the colonies of Har Homa (at Jabal Abu Ghunaim) and al-Ra's, in Shu'fat. The Jewish National Fund has been pressing for—and implementing—expansion of this plan to further deny Palestinian use of their lands in an "environmental" scheme to ring the city with parks (JNF: undated).

"Israelization" and Residency Rights

As mentioned above, the administrative measures in place, whether by active of passive means, effectively deny building licenses to Palestinians in the city. Meanwhile, a process of "Israelization" has absorbed 22% of the Palestinian population under Israeli Jerusalem's administration & services sectors. The arbitrary practice of confiscating Jerusalem Palestinians' IDs and the statutory denial or residency and family unification also affect the size and quality of life of the indigenous inhabitants of Jerusalem.

The city's Jewish population mostly carries Israeli citizenship (and all hold the status of "Jewish nationality"), while Palestinian

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28   For instance, in June 2009, Minister of Interior Eli Yishai, members of the Jerusalem City Council, the Mayor of Jewish settler colony Maale Adumim, the Knesset Speaker, and additional political and planning bodies approached the Chairman of the District Commission, claiming that the

approved plan substantially differed from the one that the local commission had recommended, and that substantial changes had been introduced without involving the local commission.

Arabs in East Jerusalem mostly hold "permanent residency," a status subject to arbitrary revocation. As far as development and rights to the city are concerned, the state's legal and institutional composition makes even those few thousand Jerusalemite Palestinians who have opted for Israeli citizenship perpetually ineligible to achieve full rights reserved to "Jewish nationals." Thus, within the context of the State of Israel, the principal administrative mechanism of development operates under the control of an agency that is unaccountable to—and, in fact, inimical to the interests of—the indigenous citizens, in general, and "permanent residents" of Jerusalem, in particular.

An initiative of the central government also has contributed to this pattern. The Sharon Plan (1993), while the former military commander was minister of housing, extended Israeli control and settlement within the Old City. The plan has involved measures that sought to guarantee safe passage for Jews from Damascus Gate to the Wailing Wall across the Palestinian Old City, and guarantee Jewish settler presence over all of the Old City to make it difficult to divide it upon peace agreement.

Institutionalized Discrimination in Israel's Legal System
NO Israeli nationality status
Citizenship or "Jewish nationality"
"Nationality" versus Citizenship
Law of Return (1950)
Law of Citizenship (1952)
World Zionist Organization-Jewish Agency (Status) Law (1952)
Basic Law: Israel Lands [The People's Lands] (1960)
Covenant with Zionist Executive (1954) (1971)
Basic Law: The Knesset (1958), Amendment 9 (1985)
Agricultural Settlement Law (1967)
Absentee Property Law (1950)
Keren Kayemet Le-Israel Law (1953)
WZO/JA & JNF chartered to discriminate, Govt. of Israel follows suit

Most dramatic of measures is found in the form of evicting Palestinian Arab residents (Islamic and Christian Quarters) under the Master Plan for 2020, the expansion outside Old City walls to include 26 settler colonies and to disconnect Palestinian neighborhoods of Ras al-`Amud, Mount of Olives, Sheikh Jarrah, Wadi al-Jawz from each other, permitting Israeli Jewish settlers to seize Palestinian properties and built in those areas, sustaining friction and dispossession the indigenous population.

The Eastern Gateway (E-1) Plan of 1994, ratified in 1997, also has absorbed 1,2443 dunams of the Palestinian suburbs of al-Tūr, Anāta, al-`Izarīyya (Bethany) & Abu Dīs, MoD. That extended Jerusalem plan is creating an industrial zone over 1 km^2, 3,500 housing units for new settlers and five hotels. This current Jerusalem 2020 plan will completely foreclose space for Palestinian expansion in East Jerusalem and encircle Anāta, al-Tūr and Hizma Palestinian suburbs. The ostensible objective of this plan is to prevent the establishment of East Jerusalem as capital of Palestine by connecting all settler colonies east of Jerusalem and outside its city limits with those inside the municipality, creating a newly defined "Greater Jerusalem" 600 km^2 (i.e. 10% of West Bank). These plans are concurrent with the building of highways, tunnels and roads especially for settler colonies to connect them (e.g., Adam & Neve Ya'acov) and, while doing so, to both bypass and disconnect Palestinian areas. Jerusalem 2020 foresees consolidating Jewish colonies to envelope Jerusalem in the three concentric planning circles, already separating many areas from city center by army checkpoints (e.g., Beit Hanīna). This is already happening with the establishment of permanent checkpoints, especially at the entrance of several densely populated Palestinian areas in north Jerusalem (e.g., Shu'fat Camp & Zu'ayyim, footpaths to Bethany and Abu Dīs) & 11 gates at Palestinian areas (e.g., Shu'fat and Kalandia "Terminals"). These combined measures aim at reducing Palestinians' presence by imposing security and economic controls that regulate the Palestinian population so as not to exceeding 12% of the population within municipal boundaries (Jordanian 6.5 km^2 only).

Quite apart from the Palestinian-proposed Jerusalem-sharing plan with a common Development Authority, measures are currently underway to disconnect electricity to settler colonies that Palestinian Jerusalem Electricity Company serves, allocating $11 million dollars for linking East Jerusalem infrastructure to West Jerusalem and allocating $100 million dollars to Judaize the city.

The 8-meter high concrete Wall of *Hafrada* (Hebrew for "separation" or "apartheid") snakes for 181km around Jerusalem's Palestinian communities, further shutting them out of the city. Settler colonies then expand and new ones emerge on the Palestinian lands left isolated on the west side of the Wall. The year 2014 marks the tenth anniversary of the International Court of Justice Advisory Opinion, requiring the removal of the *Hafrada* Wall in areas outside the internationally recognized jurisdiction of the State of Israel and reparations for the losses, costs and damages to affected legal and natural persons.

Prospects and Social Capital for the Right to the City

Jerusalem is embroiled in spatial, material and existential conflict, governed by an ideological group that seeks to maintain dominance of these spheres of urban life at the progressive expense of the indigenous inhabitants. Israel claims the city as the capital of the "Jewish state," despite international law and diplomacy reject that claim. Official Palestinian claims propose East Jerusalem as the capital of the State of Palestine to be shared with Israel within a common development authority for Greater Jerusalem (Hasson, 311-22). At the popular level, communities reflect a spectrum of mutual rejection and coexistence. From the indigenous people's perspective, however, many civil Palestinian voices reject attempts at normalization with "Jewish Israel actors; i.e., members of the group of oppressors" (NGO letter). As in all articulations of the right to the city, the national context is significant. In the case of Jerusalem, the political dimensions and physical manifestations are inexorably linked to the contentious and increasingly impractical two-state solution that Israeli and Palestinian negotiators and the international community ostensibly pursue as an ultimate objective.

The City of Jerusalem is literally consumed by spatial conflicts and identity politics over land ownership, resource distribution and cultural expression, while it is haunted by the legacy of the 1948 and 1967 conquests, mass displacement and dispossessions (Tamari) that hangs over Jerusalem like a thermal inversion. It is this highly ideologized system that controls the use of space and, thus, permits or denies the expression of inhabitants' identity.

The right to the city, from Lefebvre to the present, has embodied the claim for local control and democracy in the urban context, but this prospect confronts the overwhelming power of Israeli laws, institutions and individuals implementing material discrimination against the indigenous inhabitants' self-determination remains the principle obstacles to local democracy. In the material sense, the right to the city is also a direct challenge to the dominant property rights regime (Purcell: 2003a, 564-90; 2003b: 99-108). Such dynamics that

govern social expression and coerces behavior are, in part, what led Lefebvre and the urban social movements ever since to call for the right to the city.
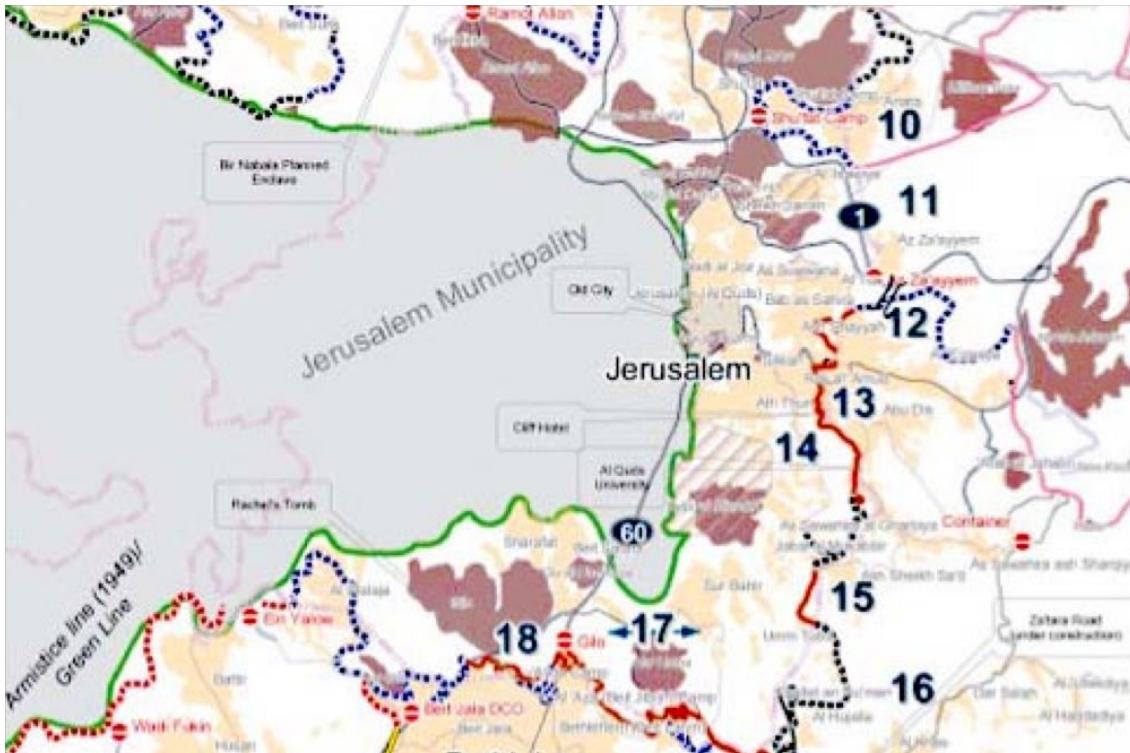
Map of the Hafrada/Separation/Apartheid Wall cutting through occupied East Jerusalem. The brown zones are Jewish settler colonies erected under Israel'Source: UN OCHA.

Originating from Lefebvre's concern with class segregation and the displacement of poor immigrants and the working class to the suburbs in Paris during 1960s, the right to the city seeks to redefine local political membership, challenges logic the logic of self-interest and alters residents' vision of, and control over spatial production (Lefebvre: 1991 and 1996) Therefore, in exercising the right to the city, private and discriminatory landowners and elites must not be the decision makers regarding land use, but rather the people most directly affected by those very decisions (Purcell: 2003a and 2003b).

The characteristics of Jerusalem's urban governance, with its pedigree of war crimes and lopsided power structure, form the context in which thus some local parties, nonetheless, have adopted and celebrated the right to the city as a political tool for positive change in pursuit of communities local control of space and self-expression.

In the extent to which these counterforces have raised the language of the right to the city, their local articulation of that right argue for democratizing development decisions, by having citizens take power over the production and management of their socially produced space. Within the global right to the city framework, urban citizenry is not rooted in nationality, rather by local urban residency. However, in the Jerusalem case, national identity remains very much at stake.

Some authors assert that identity based claims to the right to the city appear to contradict a universalistic right to the city (Rosen and Shlay). However, in this case, it is perhaps unrealistic to expect communities undergoing settler colonization to shed their respective indigenous and constructed identities. In the main, Israeli expressions and visions of the right to the city tend to address inequality, while offering only to equate the competing claims to the city space (Ibid). Meanwhile, the Palestinian Jerusalemites generally assert and pursue their right to the city as primordial and part of their liberation from a century of invasion and colonization.

Recently, some authors and students have grappled with the idea that the applying the right to the city concepts in the context of divided cites (Nagle: 2009, 326–47; Nagle et al.: 2010). In the particular Jerusalem context, urban planner Rassim Khamaisi[29] has proposed the alleviation of the Palestinian plight through the realization of the right to the city in Jerusalem and elsewhere under Israeli state control (Khamaisi). He poses that the right to the city based upon municipal "citizenship," while recognizing that the lack of the right to the city in Jerusalem

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stems from the centralized nature of the State of Israel with political regime of dispossession, control and distribution of resources skewing the balance of power (Nachmias). In many ways localizing *de facto* residency as the principal criterion of municipal citizenship would disentangle the highly centralized governance of the city, as referenced above, by the Israel Lands Administration, the Interior Ministry, "The Ministerial Committee on Jerusalem" and the Minister for Jerusalem Affairs.

Political Positions & Claims		
PLO's position	Israel position	Interntl. position
East Jerusalem (pre-1967 municipal boundaries) is capital of Palestine, and West Jerusalem the capital of Israel, with each state enjoying full sovereignty over its respective part of the city and with its own municipality and joint development council; Palestinian people have the right to sovereignty over East Jerusalem	Jerusalem the "complete and united" capital of Israel governed under Israeli law and institutions	UN GA resolution 58/292 (2004): military occupation duties under 4th Geneva Convention and The Hague Convention; Palestinian self-determination and sovereignty over their territory; two viable, sovereign and independent States, based on the pre-1967 borders; UNSC 478 (1980): Israeli annexation "null and void"; UN GA resolution 181 XX (1947): Jerusalem international zone and *corpus separatum*

Palestinian civil society organizations have engaged in *de facto* right to the city activities by engaging local communities in advocacy and alternative planning. Among them is the International Peace Cooperation Center (IPCC), which is a nongovernmental organization (NGO) dedicated to the vision of a vibrant, sustainable and democratic Palestinian society and state through an integrated approach of research, urbanism, community engagement and training. IPCC supports the development of a highly informed, competent and active Palestinian civil society that is capable of defending its social, economic and political rights and "energizes urban participatory democracy." develop scenarios, policy options, and community engagement programs that address issues of the geopolitical conflict, social and economic development, urban peace building and democratization. IPCC's program includes a current project for Raising Awareness on Palestinian urban rights to Jerusalem.[30]

IPCC plays a leadership and advisory role both locally and with international forums and partners to conduct urban planning, zoning and development of Palestinian neighborhoods in Jerusalem and other localities in the West Bank. This the Center does in order to support urban rights and prevent further escalation of the conflict. The Center works with local communities to develop bottom-up alternative-planning methods that secure the needs and "rights of [Palestinians] to the city" of Jerusalem and surrounding areas.

Social Capital / CSOs (Background Palestinian in black, Israeli in white, mixed in grey)	
1	Adalah: The Center for Arab Minority Rights in Israel
2	Alternative Information Center
3	Applied Research Center–Jerusalem (ARIJ)
4	Arab Association for Human Rights (Nazareth)
5	Association for Civil Rights in Israel (ACRI)
6	BADIL Resource Center for Palestinian Residency and Refugee Rights
7	Bimkom
8	BirZeit University Institute of Law
9	The Civic Coalition for Palestinian Rights in Jerusalem
10	HaMoked: Center for the Defence of the Individual
11	Al Haq: Law in the Service of Man
12	Im Amim
13	Israeli Committee against House Demolitions (ICAHD)
14	Land Research Center (LRC)
15	Al-Maqdese for Society Development
16	Zokhrot (Remembrance)

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30   Funded by the Middle East Peace Initiative (MEPI). For details, visit: http://ipcc-jerusalem.org/mepi.php.

The Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ) is an independent, nongovernmental, nonprofit coalition of organizations, institutions, societies and associations dedicated to the promotion and protection of Palestinian rights in Jerusalem. Established in 2005 and based in Jerusalem, CCPRJ has been working to combat human rights abuses under the Israeli occupation through research and legal analysis, advocacy and human rights education. The Coalition's primary focus is on the following areas: (1) housing, land and planning rights; (2) civil and political rights; (3) economic, social, and cultural rights; (4) the rights of the child (including the right to education); and (5) and the right to freedom of expression.

Recently, the Coalition has developed "Guidelines for Advocating for Palestinian Rights in conformity with International Law" (CCPRJ: 2014) in cooperation with Bir Zeit University's Institute of Law. The Guidelines aim to help non-lawyers understand and apply international law to Israel's oppressive regime over the entire Palestinian people: those in the occupied Palestinian territory since 1967, Palestinian citizens of Israel, and the Palestinian refugees since 1948.

The Land Research Center (LRC) is a long-established Palestinian NGO that focuses on both rural and urban cases of land deprivation. It published regular monitoring reports on Israel's demolition of Palestinian homes land confiscation. It outputs are rich in statistics and mapping of progressive denial of Palestinians' enjoyment of their rights to Jerusalem.

Officers of the LRC have experience in human rights monitoring arising from some of the earliest efforts to document abuses during the first *Intifada* of 1987–91 (through the former Palestinian Human Rights Information Center–PHRIC). In that period, PHRIC was a principal actor in the Palestinian Housing Rights Movement, which culminated in the shared platform of Palestinian groups in the Jerusalem Declaration (1996) (PHRM: 1996). In a LRC conference on World Habitat Day, on 29 May 2011, the organization formally relaunched the Palestinian Housing Rights Movement (PHRM: 2011). LRC also has been a regular participant to the HIC-HLRN Middle East/North Africa Land Forum, contributing on the segment on the right to the city with a focus on Jerusalem.

Another Palestinian civil society organization promoting human rights in Jerusalem is al-Maqdese for Society Development. The organization releases annual reports on Israel's demolition of Palestinian homes in East Jerusalem, as well as conducts training and public information activities on a range of social issues and their human rights dimensions. However, to date, al-Maqdese has not explicitly used the language or concepts of the right to the city.

On the Israeli side, certain civil society initiatives have focused on institutionalized discrimination in Jerusalem, including discussion of the concepts of the right to the city. Ir Amim (Hebrew: עיר עמים; «City of Peoples» or «City of Nations») is an Israeli activist nonprofit organization founded in 2004 that focuses on the Israeli-Palestinian conflict in Jerusalem. It seeks to ensure the «dignity and welfare of all [of Jerusalem's] residents," safeguarding their holy places, as well as their historical and cultural heritages. While the organization describes itself as "left wing," its program is seen as promoting coexistence within a frame of normalization.

The organization has worked with some Palestinian nonprofit organizations to strengthen civil society in East Jerusalem, emphasizing infrastructure works such as sanitation, water, roads, sidewalks, street utilities (streetlamps, bus stops) or neighborhood services (clinics, emergency services, mail delivery, waste collection).[31] An example of one such organization is Nuran Charitable Association, which provides emergency ambulance service in East Jerusalem (Nuran).

Ir Amim regularly provides information to Knesset members and members of the Jerusalem Municipal Government about actions in East Jerusalem that they believe to undermine Jerusalem's stability, impede equitability among residents, or threaten the possibility for future final-status negotiations in Jerusalem such as the construction of Israeli colonies in Palestinian neighborhoods. The organization also petitions the Supreme and Municipal courts in cases involving public services such as building permits and social benefits in East Jerusalem.

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31   For further information, see Ir Amim's Empowerment Project, at: http://www.ir-amim.org.il/Eng/?CategoryID=188.

The Jerusalem Policy Forum is a joint project of Ir Amim and the East Jerusalem-based Palestinian NGO, the Peace and Democracy Forum (PDF), that functions as a public institution self-described as adhering to the Universal Declaration of Human Rights and upholding the basic principles of respect for human life and dignity.[32] More specifically, PDF policy analysis focuses on economic development in East Jerusalem, educational disparity in Jerusalem, solid waste management and resolving the planning disparity.

The Association for Civil Rights in Israel (ACRI) has focused especially on discrepancies in the enjoyment of the human right to education in Jerusalem[33] (Alyan, et al.). With the start of the 2013–14 scholastic year, ACRI and Ir Amim published an annual update on the dire state of education in East Jerusalem, revealing deep discrepancies in educational investments and outcomes in the two parts of the city (ACRI and IR Amim). The report concludes that the Jerusalem Municipality and state authorities are failing to meet their obligations under a High Court ruling that ordered the completion of all missing classrooms in East Jerusalem by 2016. Faced with a shortage of 2,200 missing classrooms in the official Arab school system in Jerusalem, the groups demonstrate that the authorities are doing too little to close this intolerable gap.

While these Israeli organizations focus on aspects of the right to the city in practice, they have not explicitly used the language or concepts of right to the city in their work. Exceptions are found in the case an interview with Ir Amim's Executive Director Yudith Oppenheimer in the magazine +972 (Surrusco) and, specifically, calling for the Palestinian residents of Shu`fat to enjoy the "legal right to be in the city denied to West Bankers" (Friedman; Seidman).

Operating within Jerusalem and the West Bank, the prominent Israeli human rights organization B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories was established in February 1989 by a group of prominent academics, attorneys, journalists, and Knesset members. It endeavors to document and educate the Israeli public and policymakers about human rights violations in the occupied Palestinian territories, to combat the phenomenon of denial prevalent among the Israeli public and help create a human rights culture in Israel.

B'Tselem regularly investigates and publishes high quality reports about specific rights violations in the urban environment. Recently, B'Tselem recently updated readers on the phenomenon of Palestinian persons not present in the city for whatever reason who forever have lost their right to reside in Jerusalem (B'Tselem). Previous investigation and publication on the subject has seen B'Tselem joining efforts with the Israeli organization HaMoked: Center for the Defence of the Individual. B'Tselem regularly covers also house demolition policy, the implantation of settlers and settler colonies in Jerusalem and the occupied Palestinian territories, as well as the consequences of the *Hafrada* ("separation," "apartheid") Wall.

Based in Israel, but with operations and activities all across historic Palestine is Adalah: The Legal Center for Arab Minority Rights in Israel. The Galilee-based organization, established in 1993, involves Palestinian and Jewish citizens of Israel working together to provide legal defense and analysis to uphold human rights. Adalah's use of the language and concepts of the right to the city have been most explicit through its publications, in particular *Makan*, the *Adalah Journal for Land Planning and Justice* (Bishara and Hamdan-Saliba).

While the various organizations profiled here involve some strategic partnerships, it is not the norm for Palestinian and Israeli organizations to collaborate in formal structures or projects. Others are predisposed to work on a right to the city agenda and/or its corresponding principles (cited above).

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32   See PDF website at: http://www.pdf-palestine.org/

33   Nisreen Alyan, Ronit Sela and Michal Pomerantz, "Policies of Neglect in East Jerusalem: The Policies that created 78% Poverty Rates and a Frail Job Market" (May 2012), at: http://www.lllp.ps/Files_Uploads/634766598957504731.pdf;

Conclusion

Imagining the Right to the City

The Palestinians of Jerusalem, as part of a distinct indigenous people living within the jurisdiction of the State of Israel, the State of Palestine and in their diaspora, have a right to the City of Jerusalem that is being systematically denied. They are expressly the most restricted category of persons restricted from entry and residence there. As subjects of a right to the city movement, Palestinians should expect from the responsible local and central governments not only fully equal treatment as accorded to all other citizens, but also the recognition of their rights as a historically excluded and marginalized indigenous people, institutionally discriminated against and subject to cruel treatment and human rights violations for which the modern state and the international community bear liability. These conditions call for a right to the city movement with an explicit affirmative-action agenda in favor of this excluded class of Jerusalemites.

Israel demolition of Jersualemite Palestinian homes, in Beit Hanina, 29 October 2013. Source: *ECCP.*

Considering, as it must, the state context of the city, the Jerusalem right to the city movement would reveal this city to be the tip of a proverbial iceberg of institutional, locally "legalized" and policy-driven discrimination affecting the Palestinian people as a whole. Generalized practices of discrimination and dispossession, particularly carried out and/or managed through the operations of the State of Israel's WZO/JA, JNF and affiliates' official practice since the founding of the State of Israel. A right to the city movement in Jerusalem logically would have to face the social justice dilemmas of this past.

Given its international character, the planned social disparity, institutionalized material discrimination and its corresponding legal regime, few cities are would be needier candidates for a right to the city movement. Simultaneously, few cities are polarized more than today's Jerusalem.

The abstract language of socially produced space and social function of property may not suffice to affect the current situation where even notions of "social cohesion" have become so distorted as to shed their positive meaning and become tools of material discrimination (Bishara). The definition and pursuit of the right to the city in Jerusalem may require an accompanying process of deconstruction and disambiguation of fundamental concepts that the Israeli Occupation has constructed.

As much as the city is the focus, it is not the main subject of this review; the subject rather is the human well-being and the norms of civilization intended to achieve that condition. Sustaining both in Jerusalem requires also an ambitious remedial process in which the right to the city upholds a standard and normative frame, as developed in other more-hopeful urban contexts. This calls for the right to the city in Jerusalem as that concept relates to wider processes of transitional justice.

Recommendations

In such a situation of institutionalized discrimination, international norms recognize that temporary special

measures[34] may be needed to correct historic discrimination and its disadvantageous effects, among other actions to reform laws and institutions. For example, the CESCR's General Comment No. 20 urges that

Such policies, plans and strategies should address all groups distinguished by the prohibited grounds and States parties are encouraged, amongst other possible steps, to adopt temporary special measures in order to accelerate the achievement of equality. Economic policies, such as budgetary allocations and measures to stimulate economic growth, should pay attention to the need to guarantee the effective enjoyment of the Covenant rights without discrimination. Public and private institutions should be required to develop plans of action to address non-discrimination and the State should conduct human rights education and training programmes for public officials and make such training available to judges and candidates for judicial appointments (CESCR: 2009, §38).

Institutionalized discrimination also have been accompanied by acts having grave material and other consequences for both the Palestinian urban and rural (e.g., villager and Bedouin) communities, particularly by way of dispossession, demolition and forced displacement. Such acts constitute grounds for remedy through transitional-justice processes that include reparations, which also find their definition and normative content in general principles of international law as developed

(see Annexes). These include the elements of restitution, including return, resettlement and rehabilitation, compensation, satisfaction and guarantees of nonrepetition (UNGA: 2006a).

Potential R2C Campaign Assets, Opportunities
1996: Declaration of Jerusalem (revived in 2011)
1998: Rome Statute on ICC
2004: ICC Advisory Opinion
2011: Palestinian Housing Rights Movement revival
EU Heads of Mission Report (2011)
2011–13: Russell Tribunal on Palestine findings
2014: 10th anniversary of ICJ Advisory Opinion

The UN General Assembly has recognized a principle of international cooperation in cases of prolonged conflict and institutionalized discrimination within states. Already in the early 1950s, the question of apartheid in South Africa came to the General Assembly agenda despite the protestations of the South African delegation that the world body's discussion of institutionalized discrimination inside the Union of South Africa breached the principle of state sovereignty and noninterference. Ultimately, the deliberations affirmed that a matter of domestic violations of human rights constitute a responsibility of the international community of states when such a situation undermines regional peace and security (UNGA: 1946; 1950; 1952; 1953)[35] and (UNGA: 1954).[36]

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34 The International Convention on the Elimination of All Forms of Racial Discrimination (1965), which Israel ratified on 2 February 1979, provides in Article 1(4):"Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved."

35 The resolutions affirmed that "it is in the higher interests of humanity to put an end to put an immediate end to religious and so-called racial persecution and discrimination" and that "it is highly unlikely, and indeed improbable, that the policy of *apartheid* will ever be willingly accepted by the masses subjected to discrimination." In particular, the resolutions recognized that "The question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa"

36 The resolution affirmed also, in para. 1, that "enduring peace will not be secured solely by collective security arrangements against breaches of international peace and acts of aggression, but that a genuine and lasting peace depends upon the observance of all the Principles and Purposes established in

Ar Ram photo by JCTüre, 2009

In light of the international community's responsibility for Palestine through the UN, and the corresponding body of international law specifically applying to the city, governments have a responsibility to eliminate institutionalized discrimination (CESCR, §10). The UN Committee on the Elimination of Racial Discrimination repeatedly has found that Israel has failed to uphold its treaty obligation to combat apartheid within its jurisdiction and effective control (CERD: 2007; 2012)

The importance of implementing right-to-the-city principles in Jerusalem cannot be over emphasized. The city is not only geographically central to the country, it lies at the strategic core of resolving the protracted Arab-Israeli crisis and epitomizing social justice, rather than repelling it at the city limits. Given the interlacing of Israeli municipal and central government jurisdictions in Jerusalem as implementers of institutional discrimination, the movement for the right to the city inevitably forms part of a wider effort to democratize the state. Failing to correct the intense injustice in Jerusalem is to perpetuate conflict, erode the legitimacy of any state and/or contain the seeds of the state's own undoing in the longer run (Kymlicka; Vondung, 163; HIC-HLRN 2004).

Further, Jerusalem's status at the core of the Palestine question raises also the international responsibility of the United Nations and extraterritorial states for the situation in the city. In this context, the call for the right to the city in Jerusalem takes on a global dimension.

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the Charter of the United Nations, upon the implementation of the resolutions of the Security Council, the General Assembly and other principal organs of the United Nations intended to achieve the maintenance of international peace and security, and especially upon a respect for observance of human rights and fundamental freedoms for all and on the establishment and maintenance of conditions of economic and social well-being in all countries"; and that "in a multi-racial society harmony and respect for human rights and freedoms and the peaceful development of a unified community are best assured when patterns of legislation and practice are directed towards ensuring the equality before the law of all persons regardless of race, creed or colour, and when economic, social and political participation of all racial groups is on a basis of equality."

Annex I
Applicable International Norms
Local Application of Human Rights in the City

Human rights norms and obligations are the responsibility of the State; however, its institutions include civil servants and authorities at every administrative level. Implementing the bundle of human rights and obligations to respect, protect and fulfill them is an inevitably local task.[1]

Human rights obligations and practical tools to implement them can serve local public services and political representation for the majority of citizens and noncitizens. While human rights law theoretically applies to all aspects of public life, the review of a State's performance of its human rights treaties requires local authorities to face dilemmas and choices within human rights norms.

The question of operationalizing human rights at the important local level has been a subject of Human Rights Treaty Bodies' general treaty interpretation and specific State party reviews. Notably, the Committee on Economic, Social and Cultural Rights (CESCR) advises States parties to the Covenant on Economic, Social and Cultural Rights to take steps "to ensure coordination between ministries and regional and local authorities, in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant," in particular the human right to adequate housing.[2] CESCR also has observed how fees imposed by local authorities and other direct costs may constitute disincentives to the enjoyment of the right to education.[3]

The Harmonized Guidelines on Reporting to the Treaty Bodies advises involving local governmental departments at the central, regional and local levels and, where appropriate, at the federal and provincial levels in the preparation of periodic reports[4]. CESCR's current reporting guidelines are replete with questions for States about the progressive realization of economic, social and cultural rights through the rule of law, nondiscrimination, the maximum of available resources and international cooperation in the provision of local services and infrastructure[5]. This reflects the centralization of tasks, authorities and duties as a global practice of subsidiarity that diffuses burdens, responsibilities and functions.

The General Comment on the right to food stresses how responsibilities at multiple levels are essential to realizing that right. While "the State should provide an environment that facilitates implementation of these responsibilities," increasingly local measures are needed to ensure food security and food sovereignty. In recent years, numerous good practices and policy models exemplify the pivotal role of local decision making and preparedness to ensure the right to food[6] (DVRPC). The Special Rapporteur on the Right to Food Olivier de Schütter also has noted the role of local government in ensuring realization of the right to food through an integrated national

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1   A/HRC/23/NGO/85

2   General Comment No. 4: "the right to housing" (1991), para. 12

3   General Comment No. 11: "Plans of action for primary education (art. 14)," para. 7.

4   "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents," HRI/MC/2005/3, 1 June 2005, para. 50, at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/422/26/PDF/G0542226.pdf?OpenElement.

5   "Guidelines on Treaty-Specific Documents to be Submitted by States Parties under Articles 16 And 17 of the International Covenant on Economic, Social and Cultural Rights," E/C.12/2008/2, 24 March 2009,

6   Delaware Valley Regional Planning Commission (DVRPC), The Greater Philadelphia Food System Study (2010), at: http://www.dvrpc.org/food/FoodSystemStudy.htm; DVRPC, *Food System Planning* Municipal Implementation Tool # 18 (April 2010), at: http://www.ruaf.org/ruaf_bieb/upload/3304.pdf; Victoria Local Governance Association, *Municipal Food Security Dimensions & Opportunities: Municipal Food Security Scanning Report* (2010), at: http://www.vlga.org.au/site/DefaultSite/filesystem/documents/Food%20Security/VLGA.2011-09-06%20Food%20Security%20Report%201.pdf; Kameshwari Pothukuchi and Jerome L. Kaufman, Placing the food system in the urban agenda: The role of municipal institutions in food systems planning (Kluwer Academic Publishers, 1999), abstract at: http://newruralism.pbworks.com/f/PothukuchiKaufman.pdf.

strategy[7] (CBC).

This integration of central and local government performance is essential, too, to the realization of the human right to water and sanitation.[8] (CESCR, 15) The Independent Expert on the right to water and sanitation Catarina de Albuquerque has found a wealth of examples of good practice in which a State's holistic approach involves local government monitoring and implementation of that right.[9] (Albuquerque and Roaf)

CESCR has observed that "violations of the rights...can occur through the direct action of, failure to act or omission by States parties, or through their institutions or agencies at the national and local levels.[10] Indeed, the gross violation of the right to adequate housing through forced eviction is often carried out by local authorities. The proposed Advisory Committee study could help further operationalize the UN Guidelines on Development-based Evictions and Displacement.[11] (Kothari)

Many of the elements of an adequate standard of living without discrimination have been affirmed in international law through the International Labour Organisation (ILO), since 1919, the United Nations Organization, since 1945, and serial conventions on international humanitarian law, from The Hague Regulations (1907) through the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) and its Protocols. The human rights that apply in the urban context are enshrined in the nine principal UN human rights treaties.[12] Those legal instruments all guarantee their application without discrimination, as rights are to be enjoyed by all humans within the jurisdiction or effective control of the state. Therefore, each right corresponds with obligations that the state has assumed to "respect, protect and fulfill" most human rights without distinction as to nationality, citizenship, residency or other status. Therefore, no human is "illegal" or without rights in Jerusalem, where Israel is the *de facto* jurisdictional state.

The state discharges its obligations under treaty law when it simultaneously applies seven over-riding and mutually complementary principles of application set forth in articles 1 through 3 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant

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7   "Report of the Special Rapporteur on the right to food, Olivier De Schutter: Mission to Canada," A/HRC/22/50/Add.1, 24 December 2012, para. 16, at: http://www.srfood.org/images/stories/pdf/officialreports/20121224_canadafinal_en.pdf. In his country mission to Canada, the Special Rapporteur noted that "Numerous municipalities across the country have opposed this restriction [posed in the draft Comprehensive Economic and Trade Agreement with the European Union] on the ability of local authorities to promote urban-rural linkages and local economic development through institutional purchasing, and have requested exemptions." "UN food envoy scolds Ottawa's anti-poverty efforts," CBC News (3 March 2013), at: http://www.cbc.ca/news/politics/story/2013/03/03/pol-cp-un-food-envoy-slaps-ottawa-on-scrapping-census-and-eu-trade-talks.html.

8   CESCR General comment No. 15: "The right to water (arts. 11 and 12 of the Covenant)" (2002), para. 51.

9   Catarina de Albuquerque with Virginia Roaf, On the right track: Good Practices in realising the rights to water and sanitation (Geneva: OHCHR, 2012), at: http://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices_en.pdf; and "Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque: Mission to Egypt," 5 July 2010, A/HRC/15/31/Add.3, paras. 37, 45, 49, at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/149/35/PDF/G1014935.pdf?OpenElement

10   General Comment No. 16: "The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3)" (2005), para. 42

11   "UN Basic principles and guidelines on development-based evictions and displacement," Annex I of the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, A/HRC/4/18, 5 February 2007, at:http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/4/18&Lang=E.

12   International Convention on the Elimination of All Forms of Racial Discrimination (1965); International Covenant on Economic, Social and Cultural Rights (1966); International Covenant on Civil and Political Rights (1966); Convention on the Elimination of All Forms of Discrimination against Women (1979); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); Convention on the Rights of the Child (1989); Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) (2006); Convention on the Rights of Persons with Disabilities (2006).

on Economic, Social and Cultural Rights (ICESCR).[13] These include (1) ensuring self-determination of the peoples within it, (2) combating discrimination, (3) ensuring equality between the sexes, (4) effectively applying the rule of law to uphold rights, and (5) engaging in international cooperation, including effectively regulating external behavior of the state's constituents in accordance with the rights guaranteed in the human rights treaties that it has ratified (UN GOAR, De Schutter, Skogly and Gibney)

In the particular case of economic, social and cultural rights affecting living conditions, housing and land, the implementation measures are specified in treaty law to be "progressive" and to ensure that everyone has the capability to attain and sustain a living for herself/himself and her/his family to ensure (6) "continuous improvement of living conditions." ICESCR also requires that ratifying states (7) apply "the maximum of available resources" in the implementation of human rights, including through international assistance and cooperation (§2.1).

However, the principal norm in the context of unrecognized villages in Jerusalem arises from the human right to adequate housing, which, is a matter of principle and customary law is enshrined in Article 25 of the Universal Declaration of Human Rights (1948). (UNGA, 1948) The human right to adequate housing is guaranteed under treaty in its fundamental form bearing state obligations in Article 11 of the International Covenant on Economic, Social and Cultural Rights (1966), which treaty Israel ratified in 1991.

The legal definition of the human right to adequate housing (CESCR, 1991) provides the normative content and its sources in international law, as well as clarifies state obligations and the elements of a violation. That normative content of the right and corresponding obligations defines housing "adequacy" consistent with the human right to include the following qualities:

a. Legal security of tenure (§8(a))[14];

b. Access to public goods and services, materials, facilities and infrastructure[15];

c. Access to environmental goods and services (§8(c))[16];

d. Affordability (§8(d))[17];

e. Habitability (§8(e))[18];

f. Physical accessibility (§8(f))[19];

g. Adequate location (§8(g))[20];

h. Cultural adequacy (§8(h)).[21]

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13   International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), 16 December 1966, 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966); 993 UNTS 3, entered into force 3 January 1976; International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), 16 December 1966, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976.

14   Legal safeguards that guarantee legal protection against forced eviction, harassment and other threats and the state's immediate measures to confer legal security of tenure upon those persons and households currently lacking such protection. See Ibid, para. 8(a).

15   Including safe drinking water delivery, sanitation, energy and emergency services essential for health, security, comfort and nutrition. See Ibid, para. 8(b).

16   Including natural and common resources, proper waste disposal, site drainage and land access for livelihood and recreational purposes. See Ibid, para. 8(c).

17   Such that personal or household financial costs associated with housing be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised, including the state's prompt measures to ensure that the percentage of housing-related costs is, in general, commensurate with income level. See Ibid, para. 8(d).

18   Whereas housing must be habitable, providing inhabitants with adequate space and protecting them from the climatic elements and other threats to health, structural hazards and disease vectors. See Ibid, para. 8(e).

19   So that everyone, particularly those with special needs, have full and sustainable access to adequate housing resources. See Ibid, para. 8(f).

20   Within reasonable access to employment options, services, schools and other social facilities, whether in urban or rural areas. Ibid, para. 8(g).

21   Corresponding to building patterns, methods and materials enabling the expression of cultural identity and diversity of housing. Ibid, para. 8(h).

In practice, the right to housing can be achieved only by respecting, protecting and fulfilling other complementary rights and applying corresponding state obligations that enable persons and communities to attain and sustain adequate living conditions.

Thus, the bundle of civil, cultural, economic, political and social rights are, in both theory and practice, indivisible. In addition to the qualities that affect the material dimensions of adequate housing, upholding certain other rights ensure the processes necessary for physically adequate housing. These include the human rights to:

• Self-expression, association, peaceful assembly and participation;[22] (ICCPR, §19, 22)

• Education, information and capabilities;[23] (ICESCR, §13, 14)

• Physical security and privacy;[24] (ICCPR, §9, 17)

• Freedom of movement and residence, *nonrefoulement* of refugees and reparations for victims of forced eviction and other gross violations;[25] (ICCPR, §12)

• Right to security of person and privacy (ICCPR, §17 and 9(1), respectively).

In addition to these covenanted norms, the international human rights treaties of specific application also enshrine the human right to adequate housing with all other categories of human rights. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted in 1965 and which Israel ratified in 1979, requires that the state prohibit and eliminate racial discrimination and apartheid in all their forms, and "to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of...the right to own property alone as well as in association with others (Article 5(d)(v))...[and] the right to housing..." (Article 5(e)(iii)).

By its 1991 ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDaW), Israel has guaranteed that women "enjoy adequate living conditions particularly in relation to housing sanitation, electricity and water supply, transport and communications" (Article 14.2(h).). The State of Israel and, by extension, the Government of Israel (GoI) likewise have accepted the binding obligation under the Convention on the Rights of the Child (CRC) in 1991 to respect, protect and fulfill "the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development" (Article 27.1).This obligation embodies the commitment "to take appropriate measures to assist parents and others responsible for the child to implement this right and shall, in case of need, provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing" (Article 27.3).

Israel has not yet ratified several relevant international treaties establishing norms of policy and treatment toward certain vulnerable social groups, including relevant standards of remedy in the case of violation.[26] However, the 17 relevant

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22   Enshrined in Articles 19, 21, 22 and 25, respectively, of the International Covenant on Civil and Political Rights (ICCPR), which Israel ratified in 1991.

23   The rights to education (enshrined in Articles 13 and 14 of ICESCR), information (Article 19 of ICCPR), and particularly to uphold these rights so as to ensure capabilities of inhabitants to realize their housing rights.

24   Physical security (ICCPR, Article 9), including freedom from domestic and social violence, and privacy (ICCPR, Article 17).

25   (Article 12 of ICCPR), and the rights of victims of displacement to reparations, which includes the entitlements to remedy and reparation, entails restitution, return, resettlement, compensation, rehabilitation, the promise of nonrepetition of the crime and satisfaction that justice has been restored, as affirmed in general principles of international law and most-recently adopted in General Assembly resolution "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/60/147, 22 March 2006.

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26   Among the standards that Israel has not yet accepted are: ILO Convention No. 11 Right of Association (Agriculture) (1921); ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989); Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008); International Covenant on Civil and Political Rights

treaties that Israel has ratified form a significant framework comprising the binding norms of statecraft in the form of treaty obligations to respect, protect and fulfill the human right to adequate housing and related human rights without discrimination. (See the relevant ratifications are indexed in Annex II.)

International human rights law theory maintains that a state's obligations under treaty are applicable in its domestic legal system, and that legislatures are bound to harmonize domestic laws consistent with those principles and obligations of human rights instruments. The Vienna Convention on the Law of Treaties (1969), which Israel has yet to ratify, is substantially a codification of customary international law, provides that "a state is obliged to refrain from acts [that] would defeat the object and purposes of a treaty when it has undertaken an act expressing its consent thereto" (Article 18). The Convention also provides that a state "may not invoke the provisions of its internal law as justification for its failure to perform a treaty" (Article 27).

The UN Committee on Economic, Social and Cultural Rights (CESCR) has repeatedly affirmed the Palestinians' rights to their lands and the treaty-bound obligation of Israel to respect, protect and fulfill those rights (CESCR: 1998, §10-12, 26-28, 32 and 42; 2003, §16, 20, 27, 43). More recently, the Committee on the Elimination of All Forms of Racial Discrimination (CERD), monitoring state compliance with the International Convention against All Forms of Racial Discrimination (ICERD), also has made similar observations (CERD: 2007, §25).

Several other UN and international instruments plainly provide that discrimination against any group of people on grounds of ethnic identity constitutes a fundamental human rights violation and cannot be permitted. In the same vein, the General Assembly of the United Nations has adopted the

UN Declaration on the Rights of Indigenous Peoples, which recognizes the right of these peoples to their own lands, territories and resources as well as their cultural identity (UNGA: 2007).[27]

(1966); Optional Protocol to the International Covenant on Civil and Political Rights (1966); Convention on the Nonapplicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968); International Convention on the Suppression and Punishment of the Crime of Apartheid (1973); Convention on the Rights of Persons with Disabilities (2006).

27   However, the Israeli delegation was absent from the Assembly during the vote.

Annex II

Israel's Ratification Status under Relevant International Human Rights Treaties		
Treaty	Date signed	Date ratified
ILO Convention No. 11 Right of Association (Agriculture) (1921)	–	–
ILO Convention No. 29 Forced Labour (1930)		07 Jun 1955
Convention on the Prevention and Punishment of the Crime of Genocide (1948)	17 Aug 1949	9 Mar 1950
ILO Convention No. 87 Freedom of Association and Protection of the Right to Organise (1948)		28 Jan 1957
ILO Convention No. 98 Right to Organise and Collective Bargaining (1949)		28 Jan 1957
Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949)	6 Jul 1949	8 Dec 1951
ILO Convention No. 105 Abolition of Forced Labour (1957)		10 Apr 1958
ILO Convention No. 102 Social Security (Minimum Standards) (1952)		16 Dec 1955
ILO Convention No. 111 Discrimination (Employment and Occupation) (1958)		12 Jan 1959
ILO Convention No. 117 Social Policy (Basic Aims and Standards) (1962)		15 Jan 1964
ILO Convention No. 118 Equality of Treatment (Social Security) (1962)		09 Jun1965
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	7 Mar 1966	3 Jan 1979
International Covenant on Economic, Social and Cultural Rights (1966)	19 Dec 1966	3 Oct 1991
ILO Convention No. 141 Rural Workers' Organisations (1975)		21 Jun1979
ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries	–	–
ILO Convention No. 182 Worst Forms of Child Labour (1999)		15 Mar 2005
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008)	–	–
International Covenant on Civil and Political Rights (1966)	19 Dec 1966	3 Oct 1991

Treaty	Date signed	Date ratified
Optional Protocol to the International Covenant on Civil and Political Rights (1966)	–	–
Convention on the Nonapplicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968)	–	–
Vienna Convention on the Law of Treaties (1969)	–	–
International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)	–	–
Additional Protocol (I) to the Geneva Conventions (1977)	–	–
Additional Protocol (II) to the Geneva Conventions (1977)	–	–
Convention on the Elimination of All Forms of Discrimination against Women (1979)	17 Jul 1980	3 Oct 1991
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	22 Oct 1986	3 Oct 1991
Convention on the Rights of the Child (1989)	3 Jul 1990	3 Oct 1991
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	–	–
Convention on the Rights of Persons with Disabilities (2006)	30 Mar 2007	–
Convention for the Protection of All Persons from Enforced Disappearance (2006)	–	–
Treaty	**Date signed**	**Date ratified**

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The Palestinian Non-Governmental Organizations Network, The Civic National Commission in Jerusalem and The Palestinian BDS National Committee (BNC) letter to Mr. John Gatt Rutter, European Union Representative for the West Bank, Gaza Strip and UNRWA (NGO letter) (29 January 2013), rejecting the EU's "People to People and Partnership for Peace."

Cities without Citizens - Kenya's Contradictory Negotiations Towards the Right to the City

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Abstract

In this paper we look at right to the city, as 'right to a local place' and to 'the totality of the urban' in addition to rights to basic services. In the Kenyan context particularly, we argue that focus on generalized national citizenship weakens this 'right to local places'; necessitating the concept of citizenship to be further localized. This idea of local citizenship is linked to national and localized history that is expressed through land ownership alienating non- land owning residents from their citizenship rights.

By making reference to two urban spaces in Kenya we demonstrate how urban residents negotiate claim making and construct their citizenship in methods that move beyond the authorities' ideas of urban areas as mere centers for service provision and markets for commodities. The paper expounds these through analysis of the legal framework and two case studies, the railway relocation plan in Nairobi and a litigation response to forced evictions in Garissa.

Citizenship of the local place needs to be recognized beyond land ownership. Urban places should be looked at beyond being sites for service provision, to total theatres of life that produce situated political citizenship. Implementation of progressive laws that protect the right to the city, with an emphasis on self-governance and meaningful participation need to be escalated by all with a view to deepening access to the right to the city in Kenya.We conclude that in Kenya there is need to deepen the usufruct aspects of the city.

Keywords:

Introduction: Conceptual Underpinnings of the Right to the City

The Right to the city is based on French Philosopher Henri Lefebvre's writings, challenging mainly the exchange value and commodification of the city. Lefebvre considers the city as an 'oeuvre' – a complete body of work, with its meanings, and wealth beyond the use and the exchange values. This oeuvre is made of political life and histories, cultures and the arts, wealth and knowledge, places and spaces that give the oeuvre a distinct identity, beyond the use and the exchange values of the city.

Excessive commodification of the urban space leads to privatization of a public good. Lefebvre argues that the traditional city was based on use value, with emphasis on cultural, social and political life, and wealth, knowledgeand the arts, amongst others. The emphasis was on the use value of the city for its citizens. He further argues that cities as markets, as centers of commerce, with their emphasis on private property rights at the expense of public good, with a focus on exchange value rather than use value, threaten the integrity of this oeuvre (See Lefebvre, 1968: 67 and 101; Lefebvre, 2001; Kofman and Lebas, 1996: 19).

Citizens, who are part of this oeuvre, necessarily have two distinct rights of participation and appropriation, distinct from the right to property (Lefebvre 1968 in Kofman and Lebas, 1996: 174). Right to oeuvre can be looked at from the perspective of the city being the arena for collective support of every aspect of citizens' life, expressed in enactment of communal rituals of birth, marriage, through to death. Right to the city therefore is the collective right to 'habit and to inhabit' (Brown, undated). Participation is the right that enables the citizen to influence the production and reproduction in the urban space (Mitchell, 2003).

Therefore the right to the city from this classical perspective is the collective right to the city as a whole beyond the individualist commercial relations the city enables through the markets. It means participation in production and appropriation of urban spaces and places; which in turn enable control of socio-spatial relations beyond urban areas as economic systems or spaces. The right to the city implies that private rights to property should not emasculate public use value of cities (Purcell, 2003).

Although Lefebvre has been criticized for lacking in fieldwork, his idea of right to the city, as right to a local place and to 'the totality of the urban' in addition to rights to basic services is relevant to this paper. This case study shows that in recent times Kenya has changed its constitution and enacted laws and policies that can help achieve some aspects of the right to the city. The case further shows that in Kenya civil society has used international instruments to help residents claim some of these rights. Thus we see in this case potential for promotion of the Charter on the Right to the City particularly by civil society. We also see an evolving legal regime that can be refined to help achieve the tenets of the Charter on the Right to the City.

In the Kenyan context, we argue that focus on generalized national citizenship weakens this right to local places; therefore the concept of citizenship needs to be further localized. We argue that currently local citizenship is intrinsically connected to land ownership alienating non-land owning residents. We argue that urban areas in Kenya have been reduced from arenas of citizenship to mere sites of service provision and markets for commodities. Usufruct of the city is not recognized, save for the landowners.

Methodological Note

The Kenyan study was based on a nested case study. The case is at national level, but with two illustrative cases at urban level. The two cases were selected because each highlighted different ways in which local communities, supported by civil society organization s and international and national legal frameworks have been able to access some elements of rights to the city.

The two case studies were constructed through new data and existing data that the authors have gathered through time on the cases. It is noteworthy that Omenya has undertaken work on the railway relocation plan (Haki Jamii, 2010). The other author, Akoth works for, and is the lead Consultant for the Railway Relocation Plan on behalf of Pamoja Trust. Additional interviews were done with Haki Jamii on the Garissa case, and with staff of the Civil Society Urban Development Programme and staff of the Consulting House, who are the major funders of civil society in Kenya and the main political analysts respectively.

Secondary data was mainly made of grey literature, and various legislations and policies of the national government. This was complemented with published and theoretical literature particularly on the right to the city discourse and charter. The authors have a lot of insights into Kenyan legislative frameworks having played different roles in their development.

Outline of Urbanization in Kenya

In 1962, it was estimated that only one Kenyan out of every 12 lived in urban centers. Kenya has been urbanizing at an annual rate of 3.9 per cent per year for the period 2005-2010. By the year 1999, the proportion of the urban population had increased to 34.5 per cent translating to about 10 million people. By 2015, the level of urbanization will have reached 44.5% with an estimated 16.5 million people living in urban areas. This percentage is set to reach 54% by 2030 with about 23.6 million people living in urban areas (Republic of Kenya, 2007). Projections indicate that the average annual urban population growth rates in the next two decades will be around 4.2 per cent (UN-Habitat, 2010).

The Constitution of Kenya 2010 established 47 counties that are intended to be largely self- governing entities that will benefit from a more equitable distribution of national resources and which are meant to be more accountable to citizens at the grassroots. It is anticipated that the devolved system will accelerate urbanization and development processes within the country, as county headquarters become administrative/ political centers and hubs of economic, social and cultural activities (Republic of Kenya, 2007).

Kenya's urbanization is dominated by the five largest towns - Nairobi, Mombasa, Kisumu, Nakuru and Eldoret - which together account for the bulk of the entire urban population and around 70 per cent of the gross domestic product (GDP). Only five counties out of 47 have more than 50% population residing in urban areas (Republic of Kenya, 2013).The Figure 1 below shows the level of urbanization in all the counties in Kenya.

All urban areas in Kenya are run by county governments through devolved authority. Urban authorities are meant to focus on service provision to the citizens and have no political power.Although they are contributing significantly to the GDP, urban areas have not been systematically supported, developed and managed. Kenya's urban areas are quite unequal, contributing to increasing levels of crime, violence and juvenile delinquency, amongst other social ills (UN-Habitat, 2010). Only 30 per cent of urban centers in Kenya are planned. Nearly 55 per cent of Kenya's urban population currently lives in slum

conditions, with little or no access to piped water, sanitation and adequate housing (UN-Habitat, 2010).
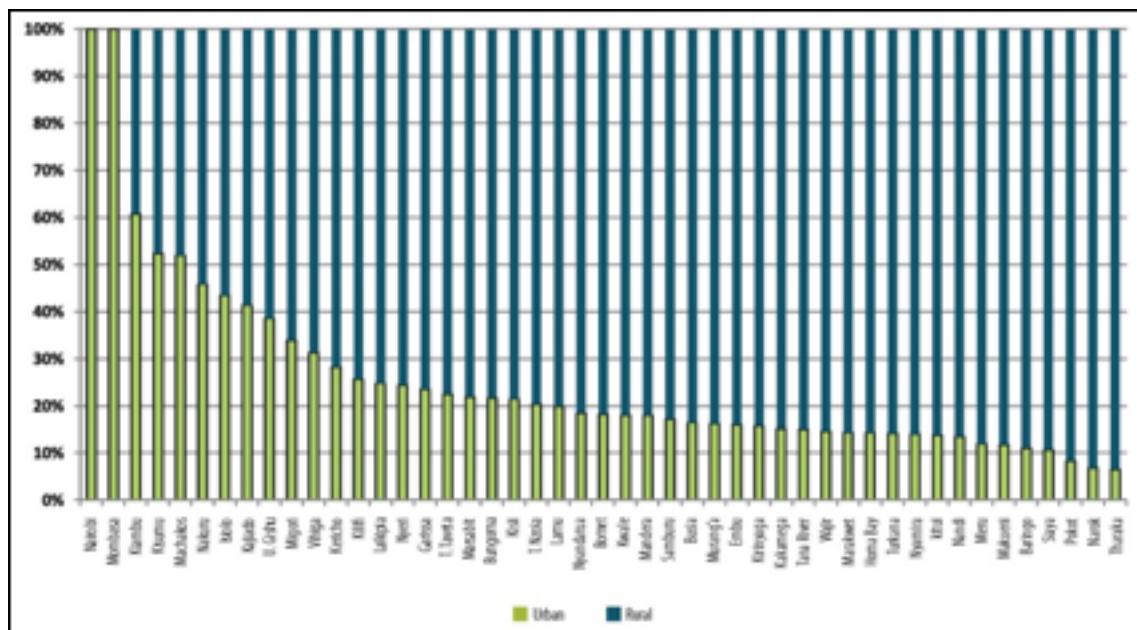
Figure 1: Level of Urbanization in the Counties
Source: Republic of Kenya (2014)

Urban areas in Kenya account for more than 70% of country's Gross Domestic Product, with Nairobi alone accounting for 47.5 per cent of total national GDP (see Republic of Kenya, 2006 and Republic of Kenya 2008). Aside from their economic contributions, there is also need to consider urban areas from the perspective of socio-cultural development of the country. In this regard governance of urban areas must be aligned with development of strong citizenship and citizenship rights and cultural identity.

World Charter on Right to the City, the Kenyan Situation

The World Charter on the Right to the City defines the city both from a physical and organizational perspective, laying emphasis mainly on usufruct of the city, dignity of the urban citizen and quality of life both in urban and rural spaces (World Charter on Right to the City, 2005). The right to the city encompasses 'negations' such as freedom from discrimination, to positive rights such as equitable use of urban resources, right to self-determination by urban residents, respect for socio-cultural diversity and minorities, access to work and social services, and environmental rights (World Charter on Right to the City, 2005).

The Kenyan context presents an urban resident who is not adequately emancipated to the powerful citizen capable of self-determination envisaged in the charter, but rather as an emasculated recipient of charity in the form of urban services. Both in law and practice, governance at urban level has been reduced to provision of a bundle of services, rather than the holistic space for self and collective actualization as envisaged in the Charter.

Anall-encompassing participation in planning, production and management of the city in envisaged in the Charter. We interpret this participation to be at the level of partnership between citizens and their government, rather than superficial public consultation to meet the lowest threshold possible in law, which is common in Kenya. This is an area where progress will need to be made in Kenya given that already there are adequate provisions for participation in the Constitution and in legislation.

The current legal, policy and practice environment in Kenya, with the emphasis of devolution and decentralization, focuses mainly in devolution of services at urban level, rather than devolution of power. It relates more to Part III of the Charter, on economic, social, cultural and environmental development of the city. The constitutional provisions, legislative frameworks and policies make provisions for the rights to clean water in adequate quantities, right to housing, including right to protection of one's home, right to clean environment, etc.

The Kenyan legal framework, as expounded in the next section, actually provides for more rights compared to those in the Charter, including freedom from hunger and rights to social security. Nevertheless, the legal framework omits two key rights that the Charter engages, namely: right to mobility and right to work. Further, the principles upon which the Right to the City is based are progressive, and ambitious, especially for a neo-liberal polity economy like Kenya. The principles of the Charter such as: social function of cities - including social function of private property, solidarity economy, equity in distribution of urban resources, burdens and benefits, and protection of vulnerable groups, are still not part of mainstream law or urban discourse in Kenya.

Socio-Economic Rights in the Constitution of Kenya 2010

Chapter One of the Constitution of Kenya 2010 entrenches fundamental and socio-economic rights and freedoms (Republic of Kenya, 2010). Central to fundamental rights is the assertion that sovereignty is vested in the people (*ibid*). The people may choose to practice their right to self-governance directly or through an elected government (*ibid*). However, the constitution creates only two levels of government - national and county, making the exercise of self- governance at other levels, especially the urban, quite vague.

The Kenyan Constitution entrenches basic rights, including: right to life, equality, human dignity, security, information, freedom of movement and clean and healthy environment. Chapter Four (Article 47) of the Constitution guarantees a bundle of socio-economic rights to health, housing, sanitation, food, water and social security, amongst others.The chapter further expounds on how these rights will be applied in the case of special categories of persons, namely: children, persons with disability, the aged and minority groups. It also entrenches the right of freedom of movement and ownership of property and compensation should there be need to limit that right (Republic of Kenya, 2010).

"Participation" is a constitutional principle, which is expected in governance and management of the Country, County and urban areas. It is entrenched in various sections of the Constitution, such as:

- Chapter Six on 'Representation of the people';

- Chapter Eight on Operations of the Legislature;

- Chapter Eleven on the Devolved System of Government, especially section 176 on County Governments, and Section 184 on Governance and Management of Urban Areas;

- Chapter Twelve on Public Finance,specifically Section Five, on budgeting which mandates participation in County budgets without which the process will be unconstitutional.

Citizenship in the Kenyan Constitution is national; therefore, there is no basis for citizenship of a county, nor an urban area. This implies that although there are bundles of socio-economic rights, these are realized nationally, and counties and urban areas, are merely vehicles for providing services to the national citizen. There is no claim, apart from through ownership of property, to citizenship of any place, save the national. Therefore, the right to a local place, such as a city does not arise; all cities exist only as conduits for services to all Kenyans, including those who have never set foot on such urban places. Therefore, urban citizenship and right to the city *per se* do not exist in Kenya.

Inclusive Urban Development in Kenyan Law

Various Acts of Parliament have attempted to implement the Constitutional requirement for self-governance and participation, both at County and urban levels. These include:

- County Governments Act 2012, which mandates participation in preparation of the County Integrated Development Plans;
- The Public Finance Act, which requires participation in preparation of county budgets, which includes urban budgets; this Act also creates equalization fund, which is meant to address the needs of vulnerable and marginalized groups;
- The Urban Areas and Cities Act, which requires participation in urban governance and management; establishes the citizens' forum; requires that Urban Boards receive petitions from citizens; requires public participation in development of Integrated Urban Development Plans, land use plans and urban budgets, amongst others.

The County Governments Act, 2012

The County Governments Act 2012 covers how the counties are to be governed. Urban areas are parts of counties in Kenya. This act does not recognize the city as an oeuvre, but gives significant spaces to control production of regional spaces through participation in governance and management of counties. The only time the Act comes close to considering the county as an oeuvre, is when the Act requires planning and development facilitation in a county to incorporate as core principles the protection of the 'right to self-fulfillment' within the county communities and with responsibility for future generations. Further, county planning objectives are meant to protect historical and cultural heritage, artifacts and sites within the county.

A county government is required by this Act to ensure efficiency, effectiveness, inclusivity and participation of the people in performing its functions (Republic of Kenya, County Government Act, Article 6). Further, the Act spells out the principles upon which citizen participation in county governments shall be founded(see Republic of Kenya, County Government Act, Article 87) as follows:

- Timely access to information;
- Reasonable access to the process of formulating and implementing policies, laws, and regulations;
- Protection and promotion of the interest and rights of minorities and marginalized groups;
- Reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes;
- Promotion of public-private partnerships; and
- Recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight, etc.

The Act requires the county government to facilitate the establishment of structures for citizen participation (see Republic of Kenya, County Government Act, Article 91). Administratively at county level, participation is envisaged to be administered by the sub-county administrator whose roles include, coordination of citizen participation in the development of policies and plans for service delivery (see Republic of Kenya, County Government Act, Article 60). Participation *per se* and the initiatives upon which people participate should be subjected to performance evaluation, including sharing of progress reports (see Republic of Kenya, County Government Act, Article 47). Further the Act obligates the county government to respond promptly to petitions and challenges from citizens (see Republic of Kenya, County Government Act, Article 89).

The Act envisages that participation in self-governance and management can only happen through an informed citizenry,

and obligates the government to ensure that such information is availed to the citizen. The latter is actually obligated to capacitate the former in that regard, which hardly happens. This is currently envisaged to happen through sharing of information and capacity building of the citizen (see Republic of Kenya, County Government Act, Article 95 and 96). To operationalize these, county government is expected to designate an office and enact legislation to ensure access to information.

Of the socio-economic rights of the citizens, the Act curiously prioritizesaccess to water, and emasculates the other socio-economic rights by referring to them only generally(see Republic of Kenya, County Government Act, Article xii). The Act requires the county government to establish a Citizens' Service Centrethat is to serve as the central office for the provision of public services to the county citizens by the county executive committee in conjunction with the national government. To aid in the provision of timely and efficient services at the Centre, the governor is required to ensure the use of appropriate information and communication technologies (see Republic of Kenya, County Government Act, Article 119).

Public Finance Management Act, 2012

The Kenyan budget process has undergone major reforms, with a view of making it more participatory, accountable and transparent to the public. Citizens have the opportunity to make direct input into the budgeting process, a development that was nonexistent in the past. The Constitution and various laws that touch on public finances (Public Finance Management Act, County Government Act and Urban Areas and Cities Act) make it a requirement for this input to be taken into account when national and county governmentsare preparing their final budget estimates (see Republic of Kenya, County Government Act, Article 25).

In spite of this provision, citizen participation in the budgeting processes in Kenya, at both the national and county levels, has been insufficient. There is still limited awareness among citizens on the budget process and how they can participate in it (Haki Jamii, 2013). The governments – both county and national - have not shown adequate enthusiasm in involving the citizens in this process. Budget making in Kenya remains largely a technocratic process with almost no effective citizen participation.

Urban Areas and Cities Act, 2011

The Urban Areas and Cities Act is one of the key mechanisms through which the urban resident in Kenya is meant to realize his / her urban citizenship, access socio-economic rights, participate in governance and management, and access basic services. A fundamental contradiction exists in Kenyan law; that there is no elected government at this level, and the managers are actually employees of the county.

One of the core purposes of the Urban Areas and Cities Act is to establish a legislative framework for participation by the residents in the governance of urban areas and cities. Among other principles, the governance and management of urban areas and cities is based on the promotion of accountability to the county government and residents of the urban area or city; institutionalized active participation by its residents; and the efficient and effective service delivery.

The Act makes provisions for the residents of a city, municipality or town to deliberate and make proposals to the relevant bodies or institutions on the provision of services, proposed issues for inclusion in county and national policies and legislation and any other matter of concern to the citizens.

The Act explicitly states that every city and municipality shall operate within the framework of integrated development planning which shall contribute to the protection and promotion of the fundamental rights and freedoms contained in Chapter Four of the Constitution and the progressive realization of the socioeconomic rights which include the right to housing; and be the basis for overall delivery of services such as water, electricity, health, telecommunications and solid waste management(Republic of Kenya, 2011 Urban Areas and Cities Act: Article 36).

This Act is currently a 'Dead Letter Act' as its various provisions have not been implemented. Urban areas still do not

have boards or management committees. Our critique of the Act is therefore based on the letter of the law rather than the practice. But even according to the letter of the law, it's clear that governance is emasculated at the expense of management. Provision of services is prioritized over self-governance, and arenas for creation of genuine citizenry with power, rights and responsibilities are watered down by having the sovereign present its petitions not to powerful elected officials, but rather to employed managers with proxy powers.

Negotiating Legal Terrains in Kibra and Garrissa

In negotiating their space in the city, the urban poor have started to claim citizenship in some Kenyan towns. This explains the efforts by the residents of the railway line in Kibra to turn to World Bank's Operational Policy 4.12 on Involuntary Resettlement that guides development of Relocation Action Plan (RAP), and residents of Garissa to turn to court process.

Although about 330 km (Bashir, 2014) away from each other, both groups made claims that resonate with Lefebvre's understanding of right to the city not by paying attention to exchange value but rather right to participation and appropriation. It is this that the residents of Kibra (Nairobi) and Medina (Garissa) use to influence the production and reproduction of citizenship in the urban space.

It must be said that the efforts of the local residents have been enabled through strong agency by local and international civil society. In the case of Kibra Railway Relocation, Haki Jamii and Pamoja Trust played a key role as the direct agents of communities. In terms of power relations, it is noteworthy that this is also a case that comes close to 'reverse capture', where the state Corporation is represented by a Civil Society Group, Pamoja Trust - as consultants - and the residents are represented by *Haki Jamii*, another civil society organization (see Odindo, 2014; Ngunyi, 2014).

'Squatters' on the Railway or 'Right Holders'? - A Case Study of the Kibra Railway Relocation Plan

The case of railway informal settlers in Nairobi, Kenya, is amongst the few cases where a major development by the Government has taken into consideration the rights of squatters. The need to modernize the railway was going to result in mass displacement of squatters around the railway reserve. Studies were undertaken by various civil society organizations, e.g. Pamoja Trust, *Muungano ya Wanavijiji*,

Haki Jamii, Eco-Build Africa, etc. to support the rights of the dwellers. The legal framework, when this process started, was weak, therefore the spaces for negotiation were very limited. This situation was to change in 2010 with the enactment of the new Constitution. The major partners in this project, Kenya Railways and the World Bank, then accommodated civil society inputs, resulting in alternative standards for the railway reserve and unprecedented plan, spearheaded by the civil society organizations, *Haki Jamii*, representing residents and Pamoja Trust, consulting for the Kenya Railway Corporation to resettle some of the evictees within the railway reserve. Resettlement plan also includes development of business premises to protect the residents' livelihood.

Figure 2: Proposed redevelopment of Kenya Railway Reserve in Kibra, Nairobi.
Source: Pamoja Trust, 2014

In January and February 2004, the Kenya Railways through the Ministry of Transport and Infrastructure, published notices to evict families in Kibra and Mukuru Slums who resided and conducted business too close to the railway line. The Kenya Government needed to modernize the railway line and the encroachers needed to be relocated to safer areas.

In 2005, the high court ruled that the proposed eviction would be a violation of the economic, social and other human rights of the railway encroachers, and directed Kenya Railways to provide alternative settlement to the squatters before evicting them. The World Bank that funded the Kenya Railways urged the corporation to negotiate with the affected communities on a resettlement plan that would follow set World Bank guidelines on resettling Project Affected Persons (PAPs).

The Kenya Railways engaged Pamoja Trust to initiate a Relocation Action Plan (RAP). Pamoja's task involved counting the number of people likely to be affected by the relocation exercise, and preparing them by jointly discussing the need for the relocation exercise. The first RAP of 2005 targeted populations occupying land within a 10.4-meter distance from the line (5.2 on each side).This relocation plan did not however take effect. First, the government contracted a private company, the Rift Valley Railways, to run its services; the company considered transferring the railway line from its current location to Langata, through the Nairobi National Park. Second, the affected populations contested sections of the plan as not reflecting their concerns, and formed a Community Based Organization, *Ngazi ya Chini,* through which they developed counter proposals. Third, the Post Election Violence in 2007-2008 saw parts of the railway line uprooted. Lastly, a train derailed in 2007 and affected families living beyond the initially proposed 5.2meter distance from the line (see Figure 3 below).

Figure 3: Train Derailment Impact in Kibra Nairobi
Source: Pamoja Trust

The second relocation plan was initiated in March 2010 after the Government of Kenya decided to maintain the railway line at its current location. In this plan, the eviction was to affect encroachers occupying land up to 60 meters from the line – 30 meters on each side. Pamoja Trust documented 5071 homes, 3836 businesses and 262 institutions in the 60meter zone.

The RAP 2010 specifically recommended the following (see *Muungano ya Wanavijiji*, 2014):

- Construction of a boundary wall in Kibra with business stalls and houses, a footpath and foot bridges;
- Relocation of Mukuru railway line encroachers to a Kenya Railways piece of land along
- Jogoo Road, Nairobi;
- Primary pupils infill adjacent public schools and more classrooms built where needed;
- Retaining other institutions and daycare centers along the wall;
- Mobile vendors occupy the trading spaces provided by the architectural designs; and
- Development of a three-tier grievance mechanism that includes, Settlement committee, Multi-segment committee and the Kenya Railway Grievance Committee.

In June 2010, *Ngazi ya Chini,* met the persons affected by the railway relocation plan and analyzed the new plan. Kibra residents felt the proposed space was too small to fit all of them plus their businesses (*Haki Jamii*, undated). The residents were also concerned that no specific relocation site had been identified, and felt that the 45-year security of tenure was to With support from *Haki Jamii*, the community came up with a modified version of thhe 2010 RAP, which is being implemented (see Figure 4 below).

Figure 4: Construction of wall and houses around the Kenya Railway Land in Kibra. Source: Pamoja Trust

The Railway relocation planning is interesting in its relationship with the right to the city in many ways. First the case predated the current constitution and was based more on international best practices for evictions and World Bank Guidelines rather than the Kenyan Law. When the Kenyan Law caught up with the case, various justifications were given for the relocation plan, especially around the right to housing and right to earn a living. Therefore homes and businesses have been protected to a good degree. It is noteworthy that even though the residents had occupied public land they are to be duly compensated for removal.

This case is also unprecedented in the fact that location of the residents, in relation to the railway, was considered, beyond shelter and business. Although it was not necessarily considered from usufruct perspectives - from the use value - it came close, to the extent that people's social networks and ways of life were considered necessary for protection.

Progressive Litigation, the Case of Forceful Evictions in Garissa, Kenya

Garissa became one of the first urban areas to bear the brunt of the new constitution when forceful evictions there, were not only declared unconstitutional, but the displaced persons claimed and received damages in line with the constitution, in addition to an order for government to resettle them on account of violation of a whole lot of their socio-economicrights, and also destroying their homes without providing appropriate alternative accommodation as required by law. The damages also extended to financial compensation for loss of livelihood.

A community of 1,122 residents in Garissa filed a case seeking to have the government prevented from evicting them from their homes, seven kilometers West of Garissa Town (Haki Jamii, 2011). The residents had occupied the land since the 1940s, initially as grazing land, but in the 1980s they put up permanent and semi-permanent dwellings.

Figure 5: Residents stand outside their demolished houses in Bula Medina in Garissa
Source: Standard Daily: 2010

Figure 6: Forceful evictions in Garissa: Source: Sabahi, 20th August 2013.
Source: Sabahi Online (2014)

On 3rd December 2010, the Garissa administrators informed the residents that they had come to prepare the grounds for the construction of a ring road, and warned that any homestead that fell along the road would be demolished. The former proceeded to mark the area where the purported road would pass. Residents' attempts to seek audience with them regarding the scheduled eviction and demolitions were futile.

Three weeks later, a group of unidentified people and armed police officers proceeded to demolish the residents' houses and structures, leaving them homeless. On 30th and 31st December 2010, the 'demolition squad' returned and continued with the exercise. The police violently crushed the petitioners' attempts to resist the eviction.

No written notice had been served on the residents. No court order had been issued for the evictions. Those evicted included children, women and the elderly. 149 houses and structures were demolished. The residents were forced to live and sleep in the open or in makeshift temporary structures, exposed to the elements, health risks, insecurity and lack of the basic human necessities such as food, water and sanitation. Several children dropped out of school. 26 of the residents, over 60 years in age, had to endure unbearable conditions in the open without basic human facilities. Though under de facto jurisdiction of the municipality, the land from which the residents were evicted was un-alienated, with no title deed.

On 12th January 2011 the residents wrote to the Minister for Lands about the eviction and the conditions under which they were living. The Ministry promised to investigate but nothing was done. On 11th February 2011, the District Commissioner for Garissa went with a squad of administration police officers and threatened to demolish the temporary structures that the residents had put up. It is at that point that the residents filed a petition before the Embu High Court, seeking several declarations as a result of their fundamental rights under the Constitution being violated.

The residents claimed that there were violations of their rights through forcible, violent and brutal eviction by the demolition of homes without being accorded alternativeshelter.

First, their rights to accessible and adequate housing, reasonable standards of sanitation, health care services, freedom from hunger, clean and safe water in adequate quantities and education were violated (see articles 16 and 18 of the African Charter on Human and People's Rights read with article 2 (6) of the Constitution of Kenya 2010).

Second, the right to life guaranteed by article 26 (1) and (3) of the Constitution of Kenya 2010 and Article 11 of the ICESCR (International Covenant on Economic, Social and Cultural Rights).

Third, the rights to physical and mental health, and physical and moral health of the family.

Fourth, the rights of children to basic nutrition, shelter and healthcare and protection from abuse, neglect and all forms of violence and inhuman treatment and to basic education (See Organization of African Unity, African Charter on Human and Peoples' Rights, 27 June 1981, articles 16 and 18 read with article 2 (6) of the Constitution of Kenya 2010).

Fifth, the rights of the elderly persons to the pursuit or personal development, to live in dignity, respect and freedom from abuse with reasonable care and assistance from the State was also infringed (Organization of African Unity, African Charter on Human and Peoples' Rights, 27 June 1981 article 57 (b), (c) and (d) as read with article 21 (3) of the Constitution of Kenya 2010).

The forcible, violent and brutal eviction through demolition of homes without any warning, court orders, any or reasonable notice in writing or availing them information and reasons regarding the demolitions and evictions violated the following fundamental rights:

- The right to inherent human dignity and the security of the person guaranteed by articles 28 and 29 (c), (d) and (f) of the Constitution of Kenya, 2010;

- The right to access to information guaranteed by article 35(1) of the Constitution of Kenya, 2010;

- The right to fair administrative action guaranteed by article 47 of the Constitution of Kenya 2010; and

- The right to protection of property guaranteed by article 40 (1), (3) and (4) as read with article 21 (3) of the Constitution of Kenya.

It is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the Bill of Rights (Republic of Kenya, 2010, Constitution of the Republic of Kenya, Article 21(1). Under article 21 (3), all State organs and all public officers have the duty to address the needs of vulnerable groups within the society. These groups include women, older members of society and children. Under article 28 every person has inherent dignity and to have that dignity respected and protected. Article 29 provides that every person has the right to freedom and security of a person, and that includes the right not to be subjected to any form of violence from either public or private sources.

Ruling in favor of the petitioners, the Embu High Court declared a violation of the rights to: life, adequate housing, water and sanitation, physical and mental health, education, information, fair administrative decisions, freedom from hunger as well as the right of the elderly to pursue personal development, to live in dignity, respect and freedom from abuse and to receive reasonable care.

The Court issued a permanent injunction compelling the State to return petitioners (residents) to their land and to reconstruct their homes and/or provide alternative housing and awarded each of the petitioners Kshs. 200,000 (approx. $2,000) in damages. It also ordered that the residents be provided with emergency alternative housing, shelter/accommodation, food, clean and safe drinking water, sanitary facilities and health care services; relevant information on the status of adjudication, demarcation, registration and ownership of the land in question; and written information on the decisions and reasons for demolition of homes and structures.

Conclusion

The pattern of evictions in Kenya demonstrates that the interpretation of 'public goods' and 'public good' is narrow in scope. Urban places have been reduced to sites of provision of government services. This results in abstraction of individual rights. We show that some progress has been made in Kenyan laws for protection of individual socio-economic rights; but these are either 'dead letter laws' that do not translate into protection of citizens' rights or infant laws that are yet to be implemented, given the nascent nature of the current Kenyan legal framework.

In the Kenyan situation, reflected in the two cases presented, we see that residents of urban areas have sought their citizenship rights beyond the provision of the Kenyan law. In Garissa, they used international treaties read in conjunction with the constitution; and in the Kibra they used standard international practices of development partners such as the World Bank to claim these rights. In this context, the right to the city is concretized through security of tenure.

In light of the foregoing there is a need to deepen the usufruct aspects of the city. Citizenship of the local place needs to be recognized beyond land ownership. Urban places should be looked at beyond being sites for service provisions, to total theatres of life. In the Kenyan context right to the city, is right to a place, including services.

Right to the city and associated rights is currently advocated for by civil society buttressed by international law. Development partners can also play a crucial role, as demonstrated by the World Bank in the Kibra Railway Relocation case. The national and county governments are ambivalent on citizenship rights, but have generally cooperated where the courts, development partners or civil society have sought to protect the rights of the citizens.

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