

My name is Thomas Coggin. I am a lecturer at the University of the Witwatersrand's School of Law, and an SJD candidate at Fordham University. My research interests revolve around urban law, and specifically the relationships between justiciable rights, and the city. I have also written on the Right to the City, and specifically its relationship with the law.

It was part of this reason why I was chosen as one of 20 experts in the first policy unit on the Right to the City and Cities for All. We had two meetings during which time we hashed out what primarily the Right to the City would entail for the New Urban Agenda. Interestingly, 'Cities for All' appeared only twice in our final policy document submitted to member states, whereas the 'Right to the City' appeared 114 times. What this tells you, I suppose, is how the Policy Document was structured almost entirely on the Right to the City; the fact that the 'Right to the City' was somewhat dismissed in the New Urban Agenda as being merely **peculiar** to some countries should indicate a certain perception by some of the failure by the New Urban Agenda to inculcate a paradigm shift in our thinking on cities. As you will see, I am not necessarily one of those people, although I do not think their disappointment is completely unwarranted.

So today I'm going to present what I think the Right to the City means, what its recognition may entail for member states, how the Right to the City and Cities for All is conceptualised in the New Urban Agenda, whether the Right to the City should have been on the agenda in the first place, and finally I'll make five suggestions for how the New Urban Agenda can be improved from either a Right to the City, or a Cities for All perspective.

So what do we mean by the Right to the City? The Right to the City was developed in the 1960s by a French philosopher by the name of Henri Lefebvre. It has recently gained significant traction amongst academics, activists, some governments, and the UN as a way of expressing a desire for a more inclusive, equal, and just city. It has traditionally been seen as quite radical in its demands for a renewed thinking on cities, and specifically it does so by not only upending the structural forces in both the private and the public sectors that result in spatial marginalisation, but also by asserting a new mode of people-centric governance that sees the making and shaping of the city through our everyday interactions with one another. In other words, it is a profoundly **deconstructive** tool that reimagines how we interact with the city. I should also mention, and this is very important, that the Right to the 'City' is not limited to our traditional notion of what a city would entail: it would include all human settlements, whether rural or urban.

From a member state perspective, it is a potentially powerful way of recognising the agency of people to make and shape cities themselves, and is also a good way of *informing* and *envisioning* the policies, processes, and legislation of member states. And I emphasise these words for two reasons: firstly, the New Urban Agenda is not a legal agreement that binds member states to certain commitments, but is rather a collective way of thinking about the challenges and opportunities facing cities around the world. Secondly, the Right to the City itself does not imply a legal right, although I do not dispute that it can hold legal underpinnings depending on how it is used.

It is rather a collective claim by inhabitants which arises out of a sense of spatial injustice, and is a banner under which people assert various claims. For example, an inhabitant may demand access to affordable, well-located housing. This demand takes place under this banner, and is seen as an expression of the Right to the City because of the spatial ramifications behind housing. The demand may require certain responses by the state, but this **does not arise from the Right to the City** in and of itself.

The Right to the City however could be a powerful **policy directive** for the state. It is a way of:

- A. saying that central to our commitment to ensuring ‘cities for all’, we **understand** that people can and do stake various claims to the city under the banner of the Right to the City; and
- B. utilising this quite utopic concept to inform the **spirit, object, and purport** of our urban policies and legislation.

So how is the Right to the City and Cities for All recognised in the New Urban Agenda? We know that the Right to the City is dismissed somewhat, but the notion of ‘Cities for All’ is developed more substantively as outlined here - **‘the equal use and enjoyment of cities, towns, and villages, seeking to promote inclusivity and ensure that all inhabitants, of present and future generations, without discrimination of any kind, are able to inhabit and produce just, safe, healthy, accessible, resilient, and sustainable cities and human**

settlements, as a common good that essentially contributes to prosperity and quality and life.'

So... despite the dismissal of the Right to the City, the Zero Draft nevertheless contains a number of **positive** elements which could guide policy, legislation and the like and in so doing aim to avoid the marginalisation of inhabitants which the Right to the City seeks to address. I have highlighted a number of these commitments below, which I believe although may not be the 'Right to the City' in name are nevertheless reflective of the claims which people bring under the Right to the City, and are to be welcomed. I do echo the voices of many that the Zero Draft needs to be more succinct, which I think could perhaps be achieved through a good editorial process, but there is a need to develop certain concepts more substantively, which I'll go into below.

Selected positive elements of the New Urban Agenda

- Recognition of the **social function of land**;
- Recognition of **inequality** brought about through the spatial organisation, accessibility, and design of urban space;
- Commitment to prevent **forced evictions**;
- Commitment to combat the **criminalisation of homelessness**;
- Commitment to recognise and develop **plurality of tenure types**;
- Multiple emphases on the **value of public space** for a variety of uses;
- Recognition of the **informal economy**;
- Commitment to avoid **gentrification** and prevent land & real estate **speculation**.

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Much of the *hesitancy* to recognise the 'Right to the City' is I think a combination of a mistrust of rights – I think we in South Africa are far more trusting of the fluidity and

strength of rights in enacting transformation than other countries are – but I also think there may be a rights-fatigue in the UN arena, and the desire for pragmatic solutions appears to trump more utopic or activist thinking (not that there is anything wrong with either trains of thought).

There is also perhaps an argument for why the Right to the City shouldn't have been on the agenda in the first place. Previous considerations of the Right to the City in global forums has attracted significant criticism. People have argued that the fact that member states are arguing in favour of the Right to the City not only presents a certain irony because the Right to the City often works **against** the state, but also because the hierarchal nature of the state within a dominant capitalist system means that any iteration of the Right to the City **dilutes** the meaning of the Right to the City. Indeed, the state cannot grant the Right to the City to its citizens; at best, it can recognise that people have claims to the Right to the City, and enact policies, legislation, etc. which address many of the concerns which activists and communities would express under the Right to the City.

In this regard, I've already highlighted how the document in its current form should be welcomed, but I do have the following suggestions for improvement. These suggestions are fairly specific, in some instances would need to be developed in a context-specific manner, and may not always be popular with other member states.

1. Firstly, I think there is a need to define the notion of **participation**. Right now, the document is peppered with the need for participation, but it is unclear the extent to

which this should take place. I wonder the extent to which it should be defined, but I would argue that the participation element of paragraph 10 (b) be separated from the rest of the paragraph, and that it be substantiated in a way that envisages direct participation *in a manner that* promotes civic engagement and engenders a sense of belonging and ownership of the city, its spaces, its processes, and its governance.

2. Secondly, I think the role of the **law** in addressing spatial injustices needs to be highlighted more convincingly. For example, paragraph 25 commits to preventing evictions, but there is no mention of how this can be achieved. I think South Africa is in a fairly unique position here to advocate for legislation such as the Prevention of Illegal Evictions & Unlawful Occupation Act (PIE), which effectively forbids an eviction order if such eviction would result in homelessness. The law can be a powerful tool, particularly for the urban poor. Its use has the potential to effectively counter repressive actions of the state, and provided there is access to justice has the potential to ensure that access to housing is not denied.
3. Related to the above, I think there is a need to explicitly recognise the prevalence and injustice of **forced evictions** worldwide. Estimates of the number of people expected to be affected worldwide by forced evictions between 2000 and 2020 vary between 38-million and 70-million people – this is a large number, and its focus should be central to the New Urban Agenda particularly given the call in Paragraph 95 to prevent slums and informal settlements... which may perhaps be read, and has in the past been read as encouraging a complete ‘ban’ on slums and informal settlements, or their removal, even where people do not have options in this regard.

The approach should rather be that urban informality is mitigated and forestalled, rather than prevented, as was recognised in the Pretoria Declaration.

4. Fourth, I think there is a need to recognise and value the work of **waste pickers** in the recycling of rubbish, which correlates with SDG Goal 11.6 & Goal 12 more generally. WIEGO notes that there is little statistical data to demonstrate the numbers and impact of waste pickers worldwide, but in a study conducted in Brazil, it was noted that 229,000 people did this work in 2008, who were responsible for the high rates of recycling in Brazil – nearly 92% of aluminium and 80% of cardboard were recycled by waste pickers. The need for state-funded research in this regard is evident, but it will be unfortunate if at the very least we have to wait another 20 years to recognise the role of waste pickers in recycling initiatives, particularly in light of the rise in consumerism in cities.
5. Finally, for all the talk of diversity in the New Urban Agenda, a key marginalised group has been erased with thanks to what appears to be the position put forward by the Russian delegation in its representations on Habitat III: That of **LGBTIQ** persons. This is despite a number of policy documents put before member states, which emphasise the need for cities to cater to the particular challenges faced by the LGBTIQ community. These challenges include physical *violence* in public spaces based on sexual orientation, and the denial of *visibility* in public space as a way of expressing one's identity.

In concluding, on the whole I think that the New Urban Agenda in its current format is a positive step forward, particularly insofar as it creates certain obligations on the state to

fulfilling the rights of its citizens. I don't think that recognising that inhabitants have a claim to the Right to the City will harm the notion itself, but it would I think have indicated a strong ideological commitment to the people-centricity of cities – and maybe, also, the notion could have been the 'it' which Christine Platt was looking for.