

## **From basic needs towards socio-spatial transformation: coming to grips with the 'Right to the City' for the urban poor in South Africa**

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The initiative to formulate [The World Charter for the Right to the City], is oriented, first of all, 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. It is a complex approach that requires articulation of the human rights theme in its integral conceptualization (civil, political, economic, social, cultural and environmental rights) to that of democracy in its diverse dimensions (representative, distributive, and participative). The Charter defines this right as “the equitable usufruct of cities within the principles of sustainability, democracy, equity, and social justice.” Our proposal is therefore not limited to a charter of human rights in the city, but rather is conceived as an instrument capable of promoting and guaranteeing the right of all people to the city, in its multiple dimensions and components (Ortiz, 2006: 100).

[I]n spite of a renaissance of interest in Lefebvre’s works in academic circles (and to some extent also elsewhere, from NGOs to international and national [urban] “development” agencies and the like), it does not seem that Lefebvre’s *approach* and *radicality* are always seriously taken into consideration and preserved. *On the contrary*. From Brazil’s *Ministério das Cidades* (= Ministry of Cities) to Hamburg’s *Recht auf Stadt-Netzwerk* (= Right to the City Network), from small NGOs to *UN-Habitat*, we can find a legion of people who use “the right to the city” as a sort of umbrella-phrase. Many behave as if it should be clear to everybody what the “right to the city” means (more or less like “sustainability” and other umbrella-expressions and phrases). However, “the right to the city” should be regarded (at least by emancipatory social movements and radical intellectuals) as a kind of “*contested territory*”, since the danger of a *vulgarisation* and *domestication* of Lefebvre’s phrase by status-quo-conform institutions and forces is a real one (de Souza, 2010: 315-16; original emphasis).

## 1. Introduction

The visions of a transformative society, symbolised by integrated cities and people-centred democracy<sup>1</sup>, that fuelled the policy- and decision-making of the mid-1990s have proven to be extremely difficult to entrench and institutionalise. Moreover, these heady aspirations were quickly overtaken by more ‘pragmatic’ concerns such as fiscal conservatism and a pressing need to deliver physical and social services to the long-excluded majority of South Africans (Harrison, Todes and Watson, 2008; Oldfield, 2008). When combined with centralising impulses within the ANC, these trends have resulted in a developmental approach adopted by the government has focused on the state as the main, if not sole, provider of services and ‘deliverer’ of development (Pithouse, 2009). Unfortunately, this has been at the cost of obscuring the agency of the poor and has resulted in the continued exclusion of the majority of urban residents from participating in the making of their own cities.

This state-centric discourse, when combined with the weakening of civil society and alliance of the formal left and trade unions with the ruling party, has had the effect of narrowing the terms of debate and limiting the mobilisation of the self-organising urban poor in South Africa to the access of government-delivered resources (Habib, 2003; Pieterse, 2009). That is to say, while poor communities have had some (limited and specific) successes with putting sufficient pressure on the government to accelerate service delivery, these movements have struggled to translate the frustration experienced by these communities and, where they exist, relationships with civil society organisations and sympathetic government officials into city- and region-wide agendas that effectively advocate for the transformation of the shape, functioning and feel of South African cities (Pieterse, 2008). In short, the struggle for livable neighbourhoods has yet to be effectively connected to the struggle for livable cities.

As the quotations to this paper highlight, the 'Right to the City' is a concept that has become an important rallying cry over the last fifty years for those protesting the growth of inequality, marginalisation, discrimination and a lack of public participation in decision-making in the functioning of cities. Indeed, its rise to development orthodoxy has been signalled by its widespread use by UN-affiliated organisations and radical social movements alike. Embedded within the concept is a strong critique of urban management approaches, exemplified by South Africa's, which are state-centric, housing-driven and tend to safeguard individual property rights over the social function of land and the city. Nonetheless, despite its increasing presence in the rhetoric of civil society and social movements in South Africa, it has yet to be given a concrete and context-specific form.

The research presented in this paper, then, seeks to investigate the applicability and efficacy of the internationally-derived advocacy agenda for 'The Right to the City' in consolidating an urban transformation agenda from concrete struggles for social justice and service delivery in South Africa. It does this in two sections: first, an overview of the origins, debates and uses of the Right to the City concept is provided, paying particular attention to debates around its content and use by different stakeholders. Second, drawing on the results of an Isandla Institute Dialogue Series, the potential content and uses of the Right to the City in a South African context are outlined.

## 1. Understanding the origins, debates about and track record of the Right to the City

The phrase was first used by Henri Lefebvre as a title to a piece of work ("Le Droit à la ville") in 1968 that decried the commodification and privatisation of urban space that he saw occurring in cities around France. He argues that the *use* value of the urban environment, particularly scarce commodities like urban land and communal space, is increasingly being overwhelmed by its *exchange* value, thereby fracturing and eroding the social life of urban centres. It sought to sketch a framework for urban social struggles that could extend beyond traditional concepts such as class struggle. It, however, stops short of proposing concrete alternatives – ending with a call to "reach out towards a new humanism, a new praxis" in which inhabitants are enfranchised to participate in the use and production of urban space (Lefebvre, 1996: 150). Purcell (2003) argues that his conception of the Right to the City, then, is about

- the right to *participation*: the right of inhabitants to take a central role in decision-making processes surrounding the production of urban space at any scale. "Unlike the indirect nature of liberal-democratic enfranchisement in which the voice of citizens is filtered through the institutions of the state, the right to the city would see inhabitants contribute directly to all decisions that produce urban space in their city" (Purcell, 2003: 102).
- the right to *appropriate* urban space. That is, it should be produced in such a way as to enable the "full and complete use" of urban space by inhabitants in their everyday lives. It therefore includes the "right to live in, play in, work in, represent, characterize and occupy urban space... The conception of urban space as private property, as a commodity to be valorized (or used to valorize other commodities) by the capitalist production process, is specifically what the right to appropriation stands against" (Purcell, 2003: 103).

The specific rights to appropriate and to participate are earned by meeting particular responsibilities and obligations of inhabitants, primarily their commitment to active participation in the (re-)making of their cities. 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 (Horlitz and Vogelpohl, 2009). Furthermore, this perspective expands the discussion on citizenship by viewing it as a "spatial strategy" whereby identities, boundaries and formations of belonging are fixed and then deconstructed (Fenster, 2010).

Lefebvre's somewhat undefined (Parcell, 2003), utopian call to combine issues of voice, spatial exclusion and gross inequalities in resource distribution has proved to be a powerful rallying cry for organisations facing the ravages of neoliberalism across the First and Third Worlds (Harvey, 2008). Saule Júnior (2008: 56) provides an overview of these issues:

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; by the commodity city; by the mercantilization of urban soil and real-estate appraisal; by the private appropriation of public investments in housing, in public transportation, in urban equipment, and in public services in general.

The Right to the City, then, has emerged strongly in diverse environments, from Latin America to Los Angeles, because it has served to correlate a common set of crosscutting concerns that have emerged from a particular global pattern of capital accumulation and dispossession.

Its ability to act as an intuitive 'umbrella phrase' for government officials, international and local NGOs and radical social movements has further supported its spread and adoption. For example, it has been 'populated' (i.e. its components have been defined) and institutionalised in divergent ways between its formal recognition in Latin American governments, including Brazil, Ecuador, Bolivia, and Mexico, and First World cities such as Toronto; a *World Charter on the Right to the City* spearheaded by NGOs under Habitat International Coalition (HIC); its use in the latest 2010/11 UN-Habitat *State of the World Cities* report; the Right to the City Alliance emerging out of Los Angeles or Abahlali baseMjondolo's use of the term in South Africa. However, as the second quotation at the beginning of this paper highlights, these attempts to stabilise and institutionalise the meaning of the term, especially those driven by state or NGO coalitions, have been treated with scepticism by those who warn about the success neoliberalism has had in hijacking and incorporating formerly emancipatory discourses (Horlitz and Vogelpohl, 2009; de Sousa, 2010). Reviewing the process that resulted in the World Charter on the Right to the City, Unger (2009) describes two 'bipolar polemics': the first driven by government and NGO 'bureaucrats' that will use the Right to the City 'logo' to "administrate human rights, count the victims and express indignation", while the second involve 'transformative movements' that will use the Right to the City "as an experiment to amplify desires for disturbances in the continuity of the legal in/exclusion". This is a dichotomy that is widely commented on by those criticising the use of the term (e.g. de Sousa, 2010). However, Unger argues that *both* 'polemics' are important in constructing struggles that result in greater equality:

In fact, human rights and real movements, the pursuit of happiness and the desires for change, immanence and transcendence can be sides of the same coin. Ethical principals are only becoming true through real life and struggles, and the real life and struggles need ethical orientations, which are transcendent to immanent claims and particularities. Demands are directed to institutions, thus relate to them. There is no discourse or struggle which is not affected by institutions or the state. But institutions, state in the dominant discourses cannot change without demands. Any serious struggle is a struggle for local demands and institutional change at the same time. The Right to the City is neither an anarchist nor statist ideology. It can be a sphere of diagonal transformations (Unger, 2009).

This, strategically, echoes Jordi Borja's (2001; in Sugranyes and Mathivet, 2010: 16) assertion that "the development and legitimization of civil rights depend on a threefold process: i) cultural, hegemony of the values that underlie these rights and the act of demonstrating them; ii) social, citizen mobilization to achieve their legalization and the creation of mechanisms and procedures

that ensure their implementation, iii) political and institutional, to formalize, consolidate and develop policies and thus make them effective". The term's ability to be populated and mobilised by different stakeholders towards different ends creates a window of opportunity to begin to build on the cross-class and cross-institutional collaborations and discussions required to meet all three processes.

Despite differentiated approaches to the term, there does seem to be crosscutting agreement that the Right to the City framework is able to provide a basis of common 'ethical orientations'. Mathivet (2010: 24) suggest that most approaches share three fundamental axes:

1. The exercise of *full citizenship*, namely the realization of all human rights to ensure the collective well-being of inhabitants and the social production and management of their habitat;
2. The *democratic management of the city* through the direct participation of society in planning and governance, thus strengthening local governments and social organisation; and
3. The *social function of the city and of urban property*, with the collective good prevailing over individual property rights, involving a socially just and environmentally sustainable use of urban space (added emphasis).

These, however, are generalities that are adopted by local struggles and institutions in very different ways because of a range of contextual factors. Horlitz and Vogelpohl (2009: 1072) explain this process of moving from the particular to the global, and from its use to meet immediate needs to imagine a new form of urbanism:

Due to the collective character of those rights they cannot merely be negotiated in an abstract way by a group of people, however smart they might be, and then put into practice on the ground. Those rights have to be commonly developed. Moreover, due to their non-universal character, or, more precisely, because they have to be understood as rights specifically for those formerly deprived of full rights, they will not simply be gained or recognized as entitlements but have to remain contested. This contestation of collective rights, however, is not a claim to plain access to what already exists. Starting from claiming rights and shaping the city according to people's needs, from fighting for land and housing free of market speculation and for urban spaces beyond boundaries of gender, race or age, the RttC [Right to the City] movement clearly heads towards a totally different urban. Its concept bears not only a critique of the actual but targets the possible. Thus, this movement has the potential to fundamentally reconfigure the central categories on which a capitalist society is based.

The Right to the City, therefore, takes shape based on the specific local needs, conditions and opportunities facing the urban poor. In an approach he calls *Critical Planning* Peter Marcuse (2009) has suggested that such a process, driven by civil society, generally involves three steps: expose, propose and politicise. The first, 'expose!', involves an analysis of the roots of the problems facing (poor) communities and communicating that analysis to those who need and can use it. The second, 'propose!', involves the formulation of responses and concrete proposals that tackle the root causes of the problems identified. The third, 'politicise!', draws on the previous steps to clarify the types of political action required, identifies the most appropriate leveraging points and draws attention to the implications of these for organisational strategy and day-to-day politics. It is in the second two steps that its 'pragmatic' elements, driven by immediate needs, are brought into 'conversation' with its more utopian and emancipatory elements, introduced by a systematic consideration of systems that perpetuate desperate inequality. It is these elements, informed by the discussion above, that form the basis for our search for the meaning of the Right to the City in a South African context.

## 2. Defining the Right to the City in the South African Context

Isandla Institute is in the process of a year-long Dialogue Series focused on contextualising and providing momentum to the Right to the City concept in South Africa. It consists of two parallel, cascading (upwards) sets of dialogues that feed one another (see Figure 1). The first set of three involve representatives of the urban poor, drawn from the Informal Settlements Network (ISN) and other community-based organisations in Cape Town, in which they reflect on the most salient issues they face in their everyday lives and the challenges they face in self-organising, informed by the Right to the City. These, in turn, shape the agendas for the second set of dialogues between representatives of urban NGOs (as well as selected representatives from community dialogues). The progress achieved during these dialogues forms the basis of, and are fed into, the next dialogue of the urban poor and so on. Each of these dialogues have been supported by preparing input documents to inform the discussion and capture the essence of previous debates. At the end of this process the outputs from each set of dialogues (the communiqué and submission in Figure 1) will be presented at a National Policy Dialogue, which will include representatives from each of the stakeholder groups as well as government officials and politicians.

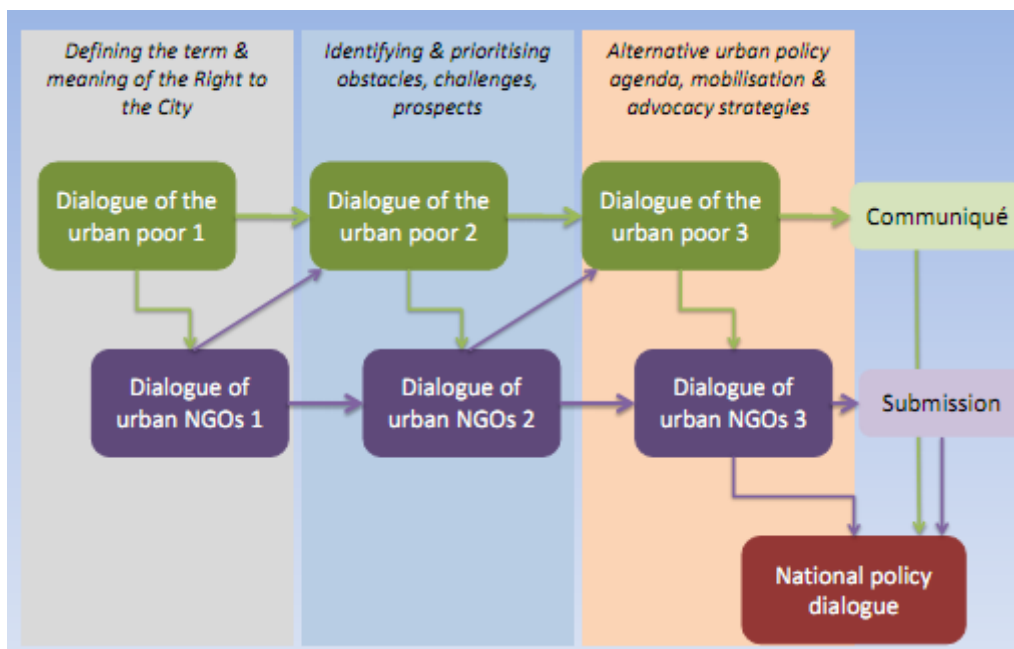


Figure 1: Isandla Institute's Right to the City Process

At the risk of belabouring the point, this methodological design is informed by Borja's (2001) insights about civil rights and draws upon Marcuse's (2009) approach to critical planning to create a civil society-centric 'sphere [for] diagonal transformations' (Unger, 2009). The rest of the paper considers some of the initial findings emerging from this process (after four of the six dialogues have been completed).

### 2.1. The Right to the City in a South African context

The term held immediate intuitive appeal to participants in our dialogues of the urban poor, who explained that the Bill of Rights held little conceptual or functional presence in the everyday life of their communities. A 'Right to the City', in contrast, immediately begins to invoke more tangible images its content *and*, they explained, implies a proactive recognition of their 'right of place'. These are unpacked in further detail in the right to full urban citizenship below. However, we discovered

that NGO participants were wary about the term itself. They expressed three sets of concerns about the applicability and appropriateness of a focus on cities in a South African context:

1. It seems to imply a focus on the metros to the exclusion of smaller secondary cities, towns and settlements<sup>2</sup>.
2. It seems to exclude rural issues and communities, who experience extreme levels of poverty and are serviced by local government that is under resourced and under capacitated.
3. A political climate currently exists that remains ambivalent, or even openly hostile, to initiatives that display an 'urban bias'<sup>3</sup>.

While these represent pertinent concerns, participants agreed that there are four compelling reasons to continue using the term: (1) the distinct nature of cities; (2) the current economic, social and environmental trends in South Africa; (3) the relationship between urban and rural areas; and (4) the strategic advantages of building on an internationally recognised concept. These are briefly discussed here.

#### 2.1.1. The distinct nature of cities

Urbanists, geographers, sociologists and economists, to mention a few, have long struggled to capture the distinctiveness of cities. Swilling and Anneck (2011) emphasise that cities are "not fixed physical artefacts or historical subjects, nor are they simply spaces within which other things happen. Cities from this perspective are, pre-eminently, emergent outcomes of complex interactions between overlapping socio-political, cultural, institutional and technical networks that are, in turn, in a constant state of flux as vast sociometabolic flows of material resources, bodies, energy, cultural practices and information work their way through urban systems in ways that are simultaneously routinized, crisis-ridden and transformative". Beall, Guha-Khasnobis and Kanbur (2010) argue that the elements that bring about these 'complex interactions' are the density, diversity and distinct dynamics that characterise cities. Echoing Swilling and Anneck, they emphasise that cities present unmatched social, economic and ecological opportunities and challenges for citizens and government alike:

Urban centres offer economies of scale in terms of productive enterprise and public investment. Cities are social melting pots, sites of innovation, political engagement, cultural interchange and drivers of social change. However, cities are also marked by social differentiation, poverty, conflict and environmental degradation. So alongside the obvious benefits of agglomeration there are also costs. These are all issues that not only matter to cities but also lie at the heart of development (Beall, Guha-Khasnobis and Kanbur, 2010: 3).

Picking up on a number of these themes, Turok and Parnell (2009: 160-1) describe the four key reasons that the state must take an explicit and considered approach to urbanisation and urban areas. First, they make a disproportionate contribution to productivity growth and job creation, especially in the transition from primary to secondary and tertiary industries. Second, their economies of scale create the opportunity for cost-effective investment of public resources in major facilities and infrastructure and it is easier to generate the revenues to operate, maintain and replace essential infrastructure in places with a viable tax base. Third, their social dynamics make them epicentres of creativity and innovation, and as well as political unrest and crime, both of which require careful and appropriate governmental responses. Fourth, the size of their ecological impact makes them prime culprits in environmental degradation, but also creates the opportunity to aggressively curb the use of non-renewable resources and begin processes of climate mitigation and adaptation.

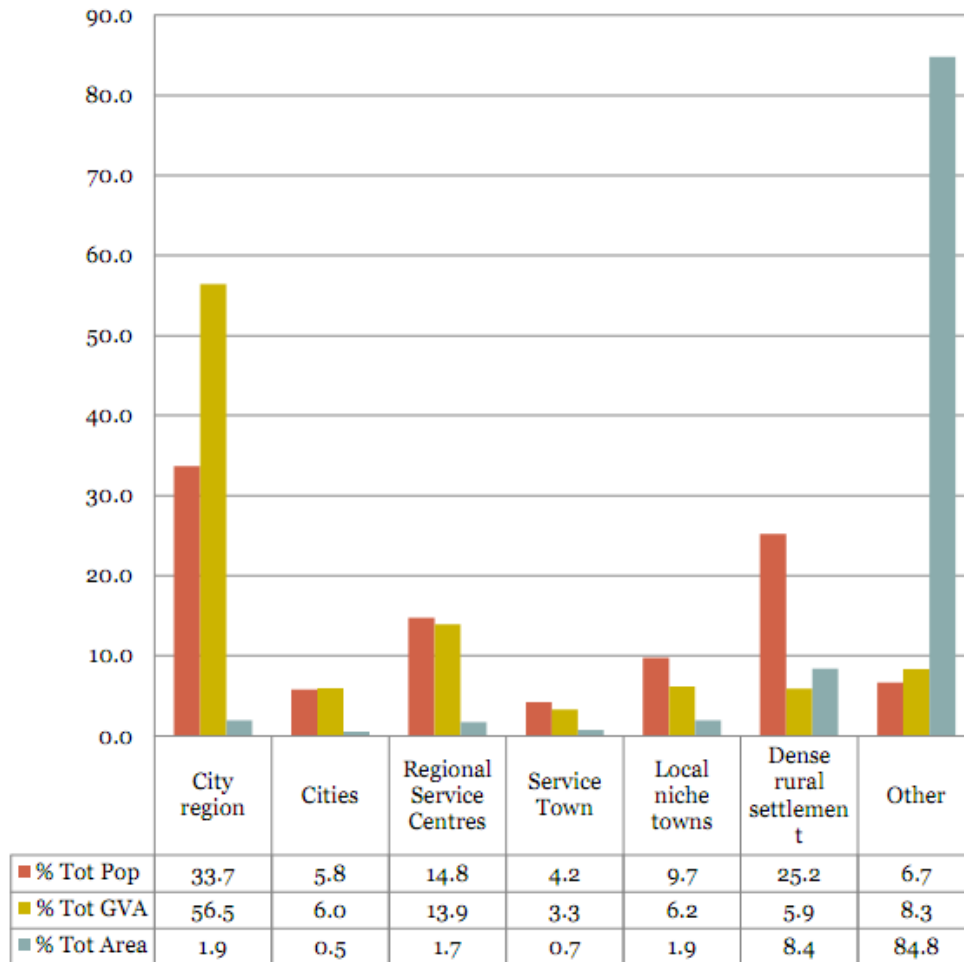
Considered together, therefore, it seems clear that there is a compelling array of reasons why cities demand particular attention as sites for progressive opportunities. It is worth noting that these definitions emphasise density, diversity and complexity and so apply equally to metropolitan areas (which are increasingly city-regions), 'secondary cities'<sup>4</sup> and, increasingly, the 'regional service centres'<sup>5</sup> that have experienced rapid growth and densification in recent years.

### 2.1.2. Current and future demographic, social, and economic trends in South Africa

It has become commonplace in contemporary writing about development in Africa to note the explosion of urbanisation projected to occur over the next twenty-five years (e.g. UN-Habitat, 2010)<sup>6</sup>, and South Africa is no exception. Some 71% of South Africa's population live in urban settlements and the population of the six metropolitan councils (metros) reportedly grew by 2.9% per annum on average over the period 1996-2007 compared with the national average of 1.8% (COGTA and Presidency, 2009: 17). The three largest metro-region areas, namely Johannesburg, Cape Town and Thekwini, accounted for over 70% of the country's population growth in the period 1996 to 2007 (van Huyssteen, Oranje and Coetzee, 2010). This urban population is increasingly young – in 2007 between 36,4% (in the Cape Town city region) and 43,5% (in the Gauteng city region) of the four major city-region populations was aged between 15 to 34 years<sup>7</sup>, and 71.2% of the total growth in the 0-14 years age group took place within the metros of Gauteng, Cape Town and eThekwini (van Huyssteen, Oranje and Coetzee, 2010).

This growing urban population is drawn to, and benefits from, cities because they are the economic hubs and generators of employment in South Africa. Urban areas produce 88% of South Africa's economic activity (COGTA and Presidency, 2009: 17) and, in 2009, between 53% and 56% of the working age population in the major metros were employed – compared with only 29% in the former Bantustans and 47% in the commercial farming areas (SACN, 2011: 24). "Interestingly, the employment rate in the metros has increased despite sizeable in-migration of job-seekers from elsewhere, who have added to the supply of labour" (SACN, 2011: 25). Furthermore, these jobs are generally of a better quality. Roughly four-fifths of workers in the metros are engaged in formal employment, compared with only 55% in the former Bantustans, and earnings tend to be higher in the metros than in rural areas, suggesting that their economies are more productive (SACN, 2011: 25). Figure 2, drawn from the recent work commissioned by the National Planning Commission, illustrates these two sets of trends quite compellingly: the density of population and economic activity concentrated in urban areas.





**Figure 2: Distribution of Space, Population, and Economic Activity across South Africa, 2009 (Harrison, 2011)**

However, as the descriptions of cities above indicate, their density and diversity have a dark side: they are also concentrations of poverty, informality, vulnerability, xenophobia and unrest. 61% of those living under the minimum living level in the country are in urban areas (COGTA and Presidency, 2009: 7). While, between 1996 and 2007, the citizens of the metros have had much greater access to services (including providing access to water, electricity and sanitation) than the national average, the same metropolitan areas are also featured when it comes to metropolitan/district municipalities listed for the biggest backlogs in terms of those services<sup>8</sup> (van Huyssteen, Oranje and Coetzee, 2010). The informal households found in the five metros account for almost half (49%) of all informal housing in the country, this is where the biggest increases have been over the last decade, and significant pockets of informal housing are also found close to important secondary towns, especially those in municipalities close to the Gauteng metropolitan areas (COGTA and Presidency, 2009: 26). While approximately one in five (19%) adults between the ages of 15 and 49 are HIV-positive in South Africa, the prevalence rate in urban informal settlements (at 25.8%) is double that of both urban and rural formal settlements (13.9%) (Shisana and Simbayi, 2002). The rate of new infections in urban informal settlements (5.1%) is more than three times the rate in rural formal areas (1.6%) and rural informal areas (1.4%) (Rehle et al., 2007). Recent research into food security in three South African cities, Cape Town, Msunduzi and Johannesburg, found 70% of poor urban households reported conditions of ‘significant’ and ‘severe food insecurity’ (Battersby-Lennard et al., 2009: 5). Finally, the majority of the xenophobic attacks have occurred in urban informal settlements and, due to a phenomenon known as ‘relative deprivation’, the strongest concentration of the ‘service delivery’ protests between 2004-10 were located in the large metros,

about half the national total, while the fewest were reported in “the worst performing (non-metro) municipalities with the largest service backlogs, and in towns or rural areas with the poorest economic conditions” (SACN, 2011: 134).

#### 2.1.3.A more explicit and strategic acknowledgement of urban-rural linkages, circular movements and remittances.

The Right to the City has an urban focus; however, as the data above highlights, it is only through a more nuanced understanding of the relationship between urban and rural areas that more socially relevant and spatially just policies can be developed. As the draft *National Urban Development Framework* puts it:

The traditional dichotomy between ‘urban’ and ‘rural’, in fact, has limitations in a context where there are growing linkages between cities, towns and the surrounding countryside... The interactions between areas arise partly from rising mobility, falling transport costs and the spread of telecommunications. They involve flows of people, finance, raw materials, consumer goods, waste products, information, water and energy resources. Migration is a particularly important ‘flow’ in South Africa, resulting in vital remittances for rural households as well as major population movements between cities and rural areas... As a result, cities have become more complex, decentralised ‘networks’ than the traditional single urban nodes surrounded by countryside. It also means that the economic fortunes of different places and communities are increasingly interdependent – bound together by multiple cords... There is thus a need for an inclusive urban development framework that complements the emerging rural development strategy. Both should reinforce each other in a mutually beneficial way (COGTA and Presidency, 2009: 7-8).

A recognition of these linkages and flows between urban and rural areas are very much a part of the way in which the Right to the City has been invoked in the Third World. For example, the *World Charter for the Right to the City’s* definition of a ‘city’ includes “every metropolis, village, or town that is institutionally organized as local governmental unit with municipal or metropolitan character. It includes the urban space as well as the rural or semi-rural surroundings that form part of its territory” (HIC, 2005: 3). Evoking the Right to the City in a way that is self-aware of urban/rural linkages, then, creates an opportunity for policymakers, government officials, civil society organisations and organisations of the urban poor. In a search for a useful conceptual label for this self-awareness we have found Revi et al.’s (2006) term *RUrbanism* to be particularly useful. They use it to describe the process of “integrating the urban with the rural – so that there is a co-evolution of the countryside and of the city that is embedded within it” (Revi et al., 2006: 58).

#### 2.1.4.The strategic advantages of building on an internationally recognised concept

Pieterse (2009: 13), echoing a number of commentators (e.g. Pillay, 2008), argues that “the political elite in South Africa, particularly in the shape of leadership of the ANC-led alliance, remains deeply ambivalent about the profoundly urbanised reality of South African society”. This hostility has been reinforced by the election of Jacob Zuma and the ANC to national office in 2009 on a rural development platform. He describes this as a “forceful return of a rural nostalgia snugly ensconced in a narrow strain of African nationalism—the ideological prism that remains uncomfortable with the messiness of postcolonial urban modernities” (Pieterse, 2009:13). There are, therefore, very real political costs to adopting an explicitly urban-centric discourse about development. However, there are two compelling sets of reasons to persist with the Right to the City.

First, in the light of the arguments about the increasingly central nature of cities in determining the course of the development of South African society outlined above, the Right to the City becomes a

long-term, strategic narrative that is adopted by organisations and individuals to restore a focus on and discourse about urban issues (although, as emphasised above, not to the exclusion of a more nuanced rural agenda). As Pieterse (2009: 13) puts it, “until these ideological[ly] driven anti-urban biases are roundly critiqued and replaced, there is simply not the political basis to really come to terms with the complexities... that ensure the reproduction of the neo-apartheid city.”

Second, as outlined in some detail in the previous section, the Right to the City has built a formidable international presence in the discourses of prominent development organisations, social movements, and in the legal rights afforded to citizens in an ever-increasing number of countries and cities. The form, content and practice advocated by the Right to the City have emerged out of contexts in the global South that face very similar economic, social and spatial challenges to those in South Africa. They create an opportunity for the state and civil society in South Africa to draw upon these experiences to inform initiatives and policies, thus far neglected, that act at the scales required to significantly advance a redistributive agenda and influence resource allocations and flows.

## **2.2. Emerging, distinct themes about the Right to the City in South Africa**

As was outlined in the previous section, international experience has suggested that there are three core components to the Right to the City: full citizenship, democratic management of the city and its processors, and the social function of the city and property (Mathivet, 2010). Drawing on Borja’s ‘threefold processes’ of the legitimation of civil rights to survey the current state of these three core components, it is immediately apparent that citizenship and democratic management have a presence in the current hegemony, citizen mobilisation and institutional frameworks of the country while the ‘social function’ remains a foreign concept to most South Africans. A key question, then, was whether and what contribution the Right to the City could make to struggles for greater socio-spatial justice and equality in South African cities? This section argues that while there is existing resonance with some of these components in South Africa, they all have an important and distinct contribution to make to these struggles.

### **2.2.1. The right to full urban citizenship<sup>9</sup>**

The question of whether it represented a unique contribution to rights discourse in South Africa, given our progressive Bill of Rights, remained a complex part of discussions in all of the dialogues. Organisations of the urban poor emphasised that while the Bill exists in theory or formality, it had little functional meaning or presence in their lives that are often forced to be lived out in the grey space between formality and informality. 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. They described Cape Town consisting of a well resourced ‘West city’, where people are treated as empowered participants and enjoy the full constellation of rights guaranteed in the Constitution, while the ‘East city’ remains an isolated, passive recipient of limited resources and attention from the government. Unprompted, then, the urban poor in Cape Town invoke the same imagery to describe their experience of exclusion and inequality as Saule Júnior (2008), quoted earlier, describing the Brazilian experience. Participants of the urban poor in Cape Town explain that the notion of the Right to the City is empowering because it enables inhabitants of this ‘East city’ to actively claim the right to be treated as a full citizen with rights, opinions and aspirations for the neighbourhood and city in which they live. While this is, of course, intimately intertwined with questions of ‘democratic management’, it is equally a basic call for a recognition by the state (and other members of society) of the legitimacy of their presence in, needs from and aspirations for the urban fabric.

In line with this call, the NGO dialogues noted that a great deal of the focus of the state and civil society action and litigation remains focused on the provision of the basic human rights guaranteed in the Bill of Rights. However, participants also noted that the humanising and collective response advocated by the Right to the City concept also created an opportunity to restore a balance in policy-making and practice between a focus on individual and collective rights. It re-emphasises the importance of *collective* second and third generation rights that, although guaranteed in the Constitution and policy, have largely become subsumed within the rush to deliver basic services. These include:

- the right to information about and *active* participation in the planning and decision-making affecting their physical environment or livelihood choices,
- the right to well located and resourced social infrastructure (including schools, clinics and police stations),
- the right to a clean, safe and secure environment (both with regards to health hazards, pollution and environmental degradation, vulnerability to crime and aggression and access to justice),
- the right to unimpeded, safe and affordable transport and movement,
- the right to public space for recreational or social activities, and
- the right to historical and cultural heritage and tradition.

These all contain both individual and collective elements. The key aspect emphasised was that their reduction to individual rights has contributed to the atomisation of processes of planning and struggles for service delivery and settlement development in an increasingly technocratic, neoliberal-inspired systems of governance. That is, the right to *my* house pits me against the state and my fellow community members (and places the state in the position of adjudicating between individual claims), while the right to a safe, secure and healthy settlement (through a process of informal settlement upgrading, for example) places an emphasis on alliances, collaboration and ‘coproduction’ (Mitlin, 2008) to improve neighbourhoods and areas. Supporting such a rebalancing of individual and collective rights in reconceptualising processors of urban development Parnell and Pieterse (2010: 149) argue that

especially for the chronically poor of the city, putting the emphasis on 3rd generation rights (that are generally realized through stronger state capacity to provide inclusive development planning and to enforce land use management), plus the economic and environmental regulations that advance the interests of the poor, is essential to a sustainable model of urban poverty reduction based on job creation and economic growth. A developmental state or effective pro-poor planning at the city scale provides a real alternative to local area or interest-based livelihood projects, the narrow extension of emergency support or even of grant-based social safety nets.

Realising collective rights, then, involves a strong state that is able to create the *conditions for* groups of citizens to actively control and participate in processes of development.

### **2.2.2. The right to the democratic management of the city**

Following directly on from this argument, there was widespread agreement that the current systems of procedural democracy (such as ward committees or Integrated Development Planning) have failed to effectively embed or embrace local processes of participatory planning and decision-making. This perspective is strongly supported by the literature on local democratic governance in South Africa (e.g. Ramjee and van Donk, 2011). Summarising these criticisms of the current system Friedman (2006: 11) argues that “perhaps the most significant indictment of structured participatory governance mechanisms is that they have not enabled the authorities to understand the needs of

the poor” and that they have not allowed policy to be influenced in a qualitative manner. Furthermore, there is growing evidence that “formally created, government sanctioned ‘invited’ spaces such as ward committees crowd out other spaces through which citizens prefer to participate on their own terms” (Smith and de Visser, 2009: 22).

The Right to the City, therefore, was treated by participants as representing a call for *community-driven, spatially-informed* systems of planning and decision-making. The World Charter on the Right to the City puts it like this: “All persons have the right to participate through direct and representative forms in the elaboration, definition, implementation, and fiscal distribution and management of public policies and municipal budgets, in order to strengthen the transparency, effectiveness, and autonomy of local public administrations and of popular organizations” (HIC, 2009: 3). This level of access or control over development processes goes far beyond the participatory precepts of current policy and practice in South Africa.

The way in which such spaces are ‘opened’ and managed is key to their success. Local and international experience has shown that “the participation of the poorer and more marginalized is far from straightforward, and that a number of preconditions exist for entry into participatory institutions. Much depends on *who* enters these spaces, on *whose* terms with *what* ‘epistemic authority’” (Cornwall and Coelho, 2007: 5). However, drawing on experiences from participatory processes of decision-making and budgeting in Kerala, India, and Porto Alegre, Brazil, Heller (2008: 168) argues that

[w]hen offered genuine opportunities for participation, local actors will get involved. Participation is not a function of stocks variables such as human capital and social capital, which can only be accumulated slowly over time. It is a function of much more malleable factors, such as institutional design, openings in the opportunity structure, alliances and new incentives. When poor people do not participate, it is not because they don't have the skills or the determination, but because the obstacles to participation are too high. There are transaction costs to participation and careful design and political action can go a long way in changing these costs.

Furthermore, he argues that the experiences of these two examples have debunked the oft heard technocratic objection to participation that it is disruptive, time-consuming and may lead to increased conflict, and shows that they resulted in increased alliances across state-society boundaries and produced synergistic outcomes.

Richard Ballard (2008: 168) has noted that “[w]ith the advent of unicities in South Africa, decision making is not devolved to the most local scale. However, participation often happens at the local level of the ward. The interaction between these two scales is key to determining the degree to which people influence policy.” The challenges associated with the quality and type of participation, then, vary across scale: participation in local development efforts tends to be a fraught dance of co-option and cooperation between locally-organised groups focused on protecting and improving their place in the city, while wider processes of city-making (such as IDPs) remain detached, obscure processes to ordinary citizens which are dominated by party-political interests and processes. Nonetheless, the city-scale, if effectively connected to local neighbourhood-scale struggles, is the ideal level for participatory spaces that are able to bring together and build coalitions of actors, who may have diverse institutional positionings and sets of interests. This is because they create opportunities and an imperative for these groups to organise beyond issue-based and neighbourhood-scale issues to address the wider urban fabric. Gaventa (2006: 30) explains:

‘Alignment’ of strategies for change is a huge challenge... those seeking not only to influence policies in the public arena, but also to change power relations more fundamentally, must simultaneously think about winning the issue, mobilising to broaden

the political space, and building awareness of those who are excluded. Rather than any single strategy, an ensemble of strategies, which work together and not against each other, are required to fully challenge these sets of power relationships.

Participatory, area-scale planning of development processes and infrastructure delivery represent such opportunities to integrate the political and technocratic aspects of participation and planning into a single 'space' able to begin to bridge the gap identified by Ballard. While the formal and informal mechanisms that would enable this remain somewhat underexplored in a South African context (Ballard, 2008: 178), the Right to the City, with its call to involve poor individuals and neighbourhoods in the processes of city-making, provides a platform to call for a far more explicit and pragmatic construction of participatory spaces capable of transcending scale and building novel alliances between stakeholder groups.

### **2.2.3. The social function of the city and property**

As was noted in the introduction to this section, the 'social function' discourse, which has a long history in Latin America and Europe<sup>10</sup>, has little intuitive presence in South Africa. A Lockean conception of individual private property rights holds a hegemonic presence in the urban areas amongst poor and rich alike (while the converse is frequently true of areas under traditional authority). However, despite the protection of private property rights in the 1996 Constitution, its codification of second generation, socio-economic rights strongly resonate with the 'social function doctrine'. Ankersen and Ruppert (2006: 108) explain that in

the liberal constitutional model, the market takes care of land redistribution and ensures its productivity. In contrast, the social constitutional model obliges property owners to utilize property productively and for socially beneficial purposes, and obliges the state to ensure that this occurs. This positive duty of the state to intervene in private property relations to ensure its social function fits within the paradigm of what human rights scholars call "second generation rights." Second generation rights are generally considered to be social and economic rights, rights inuring to the benefit of all society that the state is obliged to promote.

The social function 'doctrine' reasons that the state's authority stems from its ability to provide for certain social needs and so its protection of private property is only justified insofar as this protection contributes to a wider social function. The Colombian Supreme Constitutional Court has, therefore, argued that it "signifies a great advance in western thought related to two antagonistic positions that find their conciliation in the social function: individualism and collectivism. The former negates, or at least minimizes, the social and public character of the right to property; at the same time, the latter rejects or diminishes the private and individual character that the right to property may have. The doctrine of the social function of property establishes that the right to property is simultaneously individual and social" (in Ankersen and Ruppert, 2006: 104). The social function, therefore, represents a call for a re-balancing of individual and collective rights and creates obligations for both property owners and the state to ensure the positive use of urban land. The definition of what constitutes the 'positive use' of land becomes a political, social and economic question that must be collectively debated (Houtzager, 2003). What are the practical implications of the social function doctrine in South Africa? The dialogues identified three sets of priorities that could be supported by the doctrine: tenure security and informal settlement upgrading, explicit action to tackle spatial inequality and the pursuit of sustainable development options.

First, the most pressing and tangible priorities in realising the poor's right to access and be secure in South African cities are the provision of tenure security in and the incremental upgrading of informal settlements. Huchzermeyer (2009: 63) passionately argues that

'informal settlements' represent... universal human needs: community, individual and cultural expression, shelter and home-making, access to a livelihood and access to schooling. Therefore, in contrast to formally planned and established neighbourhoods that express a wide range of market interests, 'informal' settlements in South Africa's cities portray primarily a human face... Unlike formal property owners, the residents of these settlements play no active part in the socio-economic processes that deepen inequality: they are excluded from the formal process of land subdivision and land-use control, and from the distorted land market it underpins and which is so much adorned and guarded by all who play their economic cards in this lucrative game... The South African political economy requires citizens to believe that playing these cards is a universal human need. Those who do not or cannot participate are not to be tolerated; their human-needs-led settlements will be 'eradicated' over the next 8 years.

This involves an explicit recognition by the government, and ruling and middle classes, that informality will be an enduring feature of South African cities for the foreseeable future. This is a difficult proposition considering the tradition of hostility amongst politicians and government officials to informal settlements (and other systems of informality that play an important role in the lives of the urban poor) that was captured during Lindiwe Sisulu's tenure as Minister as the 'elimination' discourse (see Huchzermeyer, 2008). As Mark Misselhorn (2008: 28) has noted, "[t]here have been confusing messages from the South African state in respect of slums eradication and slums clearance... These messages...have certainly played a part in bringing about a measure of polarisation between the state and the urban poor and a loss of understanding between the two." Furthermore, this pervasive attitude and discourse stands in contrast to the government's stated policy in *Breaking New Ground* (BNG). Pithouse (2009: 11) explains that there is "a basic contradiction between BNG, with its focus on a holistic and consultative process based on the development of housing as a form of support for communities, and 'slum eradication' measures. BNG takes inadequate housing as the fundamental problem and seeks to take action to develop more adequate housing. 'Slum eradication' takes shack settlements as the fundamental problem and seeks to get rid of them." This dissonance has persisted under Minister Sexwale who established the National Upgrading Support Programme (NUSP) and has undertaken to upgrade 400,000 households by 2014, and yet has focused a great deal of the department's energy on the quality of housing provided and the descriptions of envisaged sustainable human settlements which retain distinct middle-class elements<sup>11</sup> (Smit, 2010).

Embracing a 'social function' approach to informal settlement upgrading and tenure security, then, will de-emphasise the need to integrate these settlements into the formal market in favour of concentrating on those aspects that make them 'human-needs-led settlements'. International experiences of market-inspired efforts to recognise tenure security (and more specifically the transfer of titles) inspired by the work of Edward De Soto have shown that there is no necessary connection between the transfer of formal property rights (a state driven process) and the de facto security of settlements (van Gelder, 2010). Furthermore, van Gelder (2010: 451), quoting Durand-Lasserve (2006), argues that the "rapid integration of informal settlements through the allocation of property rights 'may hinder community cohesion, dissolve social links, and induce or accelerate segregation processes through market eviction', and therefore undermine (f)actual tenure security rather than strengthening it. By taking a more gradual approach, de facto and legal tenure security can be made to run parallel, in which strengthening one component also implies strengthening the other, rather than undermining it." The form of informal settlement upgrading implied by the social function doctrine, then, places a premium on participatory processes and partnerships between the state and communities, as well as a careful reading of current patterns within the settlement:

Any slum improvement intervention must be sober about why it may be beneficial to some people to want to continue their livelihoods in a context of an informal settlements and not formal housing or a more formalised environment. As slums exist currently, they are

teeming with life, social networks and economic linkages. It is often impossible to recreate these livelihood options and possibilities outside of the highly fluid and malleable physical conditions that are best offered by informal areas. It is important to shed light on these aspects of slum life, without romanticising them, because policymakers are often baffled by the resistance that come from some slum dwellers to upgrade proposals. Furthermore, upgrading initiatives must, of course, work with an intimate understanding of the existing livelihood strategies of those affected, as the vast literature on livelihoods and assets-based poverty reminds us (Pieterse, 2008: 57).

It must be noted, however, that while this approach may be an exception in governmental discourse, it has long been central to the practice advocated for and implemented by civil society (Swilling, 2008).

Such a progressive approach to ensuring the poor's access to the city, however, leave "political issues of land ownership, the land market and rights around property values" as well as the promotion of desegregation, integration, densification and mixed-use unaddressed (Charlton and Kihato, 2006: 256). Second, therefore, it must be combined with planning and spatial interventions that challenge the current patterns of socio-spatial inequality and separation. The social function doctrine has been used extensively in Latin America to rationalise and conceptualise such interventions. For example, in the Brazilian 2001 Statute of the City "municipal government was given the power to, through laws and several urban planning and management instruments, determine the scope of this (possible) balance between individual and collective interests over the utilization of this non-renewable resource essential to sustainable development in cities, that is, urban land" (Polis, 2002: 27-8). The underpinning rationale strongly invokes this idea that it is the state's role to balance individual and collective interests:

Critics of these new mechanisms tried during the long legislative process to characterize these instruments as "just another tax" or "a confiscation of rights to private property." This discourse sought to invert what really occurs in our cities – private appropriation (and in the hands of the few) of real estate appreciation that is the result of public and collective investments, paid by everyone's taxes. This private appropriation of public wealth, drives a powerful machine of territorial exclusion, a monster that transforms urban development into a real estate product, denying most citizens the right to benefit from the essential elements of urban infrastructure (Polis, 2002: 28).

A discussion of the content of these tools is beyond the scope of the paper; for a recent overview with a discussion of their implications in South Africa see Brown-Luthango (2010). Isandla Institute's dialogues, and a supplementary survey circulated to participants, identified a number of interventions that are needed to challenge the patterns that are replicating the 'neo-apartheid city', including:

- increased tenure security and the incremental upgrading of informal settlements, especially those on well-located land;
- increased access to public (or publicly subsidised) rental housing within the inner cities;
- audit and compel the use of state-owned land to meet the needs of the urban poor;
- disincentivise inappropriate or undesirable patterns in the formal market, including land speculation, and low density, single-use 'gated communities';
- incentivise densification, mixed-use development, inclusive and social housing and infill developments;
- recoup unearned increases in the value of private property that are created by public investment ('value capture'); and



- strengthen and integrate transport planning, which is both instrumental in shaping the future development of the city system as well and ensuring the accessibility of economic opportunities, into the spatial and land use planning and regulatory systems.

Participants noted that it should be made explicit that this is part of a redistributive agenda; accepting that this would cause public controversy. It was felt that the resulting debate would be an important opportunity to have a public engagement about ongoing patterns of NIMBYism<sup>12</sup> and social segregation.

Third, the discussion of the social function of land, thus far, makes little reference to issues of environmental sustainability<sup>13</sup>. However, the rights-based discourse naturally invokes the notion of 'environmental justice' for both the current and future inhabitants of cities. Reviewing international trends for environmental justice, Schlosberg (2007) argues that it is achieved through (1) the equitable distribution of environmental risks and benefits; (2) the fair and meaningful participation of communities in environmental decision-making; (3) the recognition of community ways of life, local knowledge, and cultural difference; and (4) improving the capability of communities and individuals to function and flourish in society. Furthermore, the environmental and social discourses are deeply intertwined with the other with their common emphasis on collective processes and responsibility as well as the need to plan for the development of the city-system requires an explicit tackling many of the values and patterns that currently dominate our cities (e.g. consumerism). Together they create an opportunity to combine environmental, social, economic and spatial dynamics into a single conversation. A recent UN-Habitat report on planning suggests that

A place-based strategy should ensure that the human dimension is driving all others. It recognizes that human well-being is a central element of a sustainability strategy. The focus of this approach is making cities more self-sufficient in a range of different ways, from job creation and food production to energy production. This strategy also aims at reflecting the uniqueness of 'place' in all urban developments, as opposed to faddish copying of plans and architecture from elsewhere (UN-Habitat, 2009: 208).

The Right to the City, then, creates an opportunity for us to add this 'human dimension' to sustainability debates in planning and decision-making about our future cities.

### **2.3. The other side of the coin: the responsibilities of stakeholders**

We would like to emphasise that it became clear during the dialogues that the Right to the City, as described above, not only entitles urban residents to new (and/or reinforces established) rights but also implies a fundamental rethinking of the responsibilities of the different stakeholders in processes of city-making. It requires poor communities to become (pro)active participants in locally-led organisations and initiatives that shape processes of planning and decision-making as well as deliver services and infrastructure. The state is required to play an assertive, enabling role that works through partnerships and targeted interventions (for example through the regulatory system). These should be a result of negotiations in participatory spaces that maximise accountability and debate. It also challenges harmful patterns in the ruling and middle-class (overconsumption, NIMBYism, low-density property development etc) and calls for greater recognition of the need for redistribution<sup>14</sup>. Finally, as the World Charter for the Right to the City puts it, the Right to the City requires the "participation of private sector agents in social programs and economic endeavours with the purpose to develop solidarity and full equality among inhabitants" (HIC, 2005: 5).

### **3. Concluding thoughts**

This paper has outlined the various ways in which the Right to the City has been employed internationally and began to sketch its usefulness in a South African context. While still being a relatively new concept in South Africa, the Right to the City clearly links a number of those aspects of urban development that shape the basic quality of life for the urban poor to structural questions of exclusion, inequality and unsustainable patterns of production, accumulation and consumption. Put another way, it links questions about the right to the full experience of urban citizenship to the right to city-making (including city-transformation). The Right to the City concept also has real potential to provide organisations of the urban poor and the NGO sector with a tangible conceptual centre for the 'alignment of [different] strategies for change'. Furthermore, it invokes a sense of the common responsibilities and stewardship that are required for the kind of 'diagonal transformations' that will enable the search (and/poor struggle) for livable, productive, integrated and sustainable cities in South Africa.

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<sup>1</sup> The Reconstruction and Development Programme, for example, argued for “the need to break down apartheid geography through land reform, more compact cities, decent public transport, and the development of industries and services that use local resources and/or meet local needs” (ANC, 1994: 83).

<sup>2</sup> The data used in the argument that follows has a metro bias; however, this is a function of the available data sets and we are included wider data wherever possible.

<sup>3</sup> ‘The political elite in South Africa, particularly in the shape of leadership of the ANC-led alliance, remains deeply ambivalent about the profoundly urbanised reality of South African society’ (Pieterse, 2009: 13).

<sup>4</sup> These typically include Bloemfontein, East London, George, Richards Bay, and Polokwane.

<sup>5</sup> “They have relatively functional formal economies and play a significant role in servicing their hinterlands, whether within dense former homelands or in vast, sparsely populated regions (such as Upington and Springbok). They typically hold their own nationally and are neither net contributors nor recipients of state resources. Many also face challenges of economic diversification and modernisation, including Rustenburg, Middleburg and Secunda” (COGTA and Presidency, 2009: 32-33).

<sup>6</sup> For example, the UN-Habitat’s *The State of African Cities* of 2010 begins: “In 2009 Africa’s total population for the first time exceeded one billion, of which 395 million (or almost 40 per cent) lived in urban areas. Whereas it took 27 years for the continent to double from 500 million to one billion people, the next 500 million will only take 17 years. Around 2027, Africa’s demographic growth will start to slow down and it will take 24 years to add the next 500 million, reaching the two billion mark around 2050, of which about 60 per cent living in cities” (p. 1).

<sup>7</sup> Due to both natural growth as well as substantial in-migration of working age adults to the area.

<sup>8</sup> This is both due to increase in population (both through growth and migration) and demand (due to the fracturing of households) (Pillay, 2008:120-1).

<sup>9</sup> The use of citizenship here, however, is not intended to refer to legal status. The World Charter for the Right to the City states that “[a]ll 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” (HIC, 2005: 2).

<sup>10</sup> For example, Brazil, Mexico, Colombia, Venezuela, Costa Rica, Germany, Japan, Italy, and the Philippines have some mention of the social function doctrine in their constitutions, as well as the EU Charter of Fundamental Rights, the International Covenant on Economic, Social and Cultural Rights and recent judgements by the European Court of Justice (ECJ) “which has held that, by virtue of its inclusion in the constitutions of most of the member states of the European Union, the Social Function Doctrine represents binding European law” (Ankersen and Ruppert, 2006: 110; Houtzager, 2003).

<sup>11</sup> For example, his 2010 budget speech focused on the latter over the former: “Our holistic approach to human settlements development recognises that the economic fortunes of South Africans are never static. Someone who lives in a shack in Gugulethu today may occupy an RDP house in Delft tomorrow or, later, reside in Rondebosch” (Sexwale, 2010). The focus of the improvement is individuals enabled to exercise ‘free’ choice, rather than the integration and betterment of settlements.

<sup>12</sup> NIMBYism stands for Not in My BackYard.

<sup>13</sup> Although, as Ankersen and Ruppert (2006) note, the environmental aspects of the right to the city it is increasingly being included in jurisprudence in Latin America (and is prominently visible in the World Charter for the Right to the City).

<sup>14</sup> The World Charter for the Right to the City describes this: “Cities should promote and value the political and economic conditions necessary to guarantee social-solidarity economic programs and progressive taxation systems that assure just distribution of the resources and funds necessary for implementation of social policies” (HIC, 2005: 5).