



Understanding and implementing the *right to the city*:

Building just, democratic and sustainable cities

The key challenge for developing policies, planning and urban development is to promote social justice and inclusion in the cities.

The lessons in this training guide include experiences and initiatives that are being analyzed in an international study organized by Habitat International Coalition, the Fórum Nacional de Reforma Urbana (Brazil) and Instituto PÓLIS (Brazil), with the goal of bringing the right to the city into practice.

What is the *right to the city*?

I. Concept

The right to the city the title of a sociological work written by Henri Lefebvre¹ during the 1960s, a period of prolonged civil unrest and movement for greater economic justice. Since then networks, civil society organizations, multilateral organizations, municipalities and some United Nations agencies have returned to the concept to generate initiatives together that operationalize the “right to the city.” One of the principal vehicles of the concept and “claim” of the right to the city is the **World Charter for the Right to the City**, developed through consultations and debate among social movements from all regions. This global reference defines *the right to the city* as the equitable use of cities according to the principles of **sustainability, democracy, equity and social justice**. It is a **collective right of the inhabitants of the cities**, giving priority to vulnerable and disadvantaged groups, whose actions and organization gain legitimacy through their customary pursuit of the objective to achieve, in practice, the right to free self-determination and an adequate standard of living.

The right to the city is interdependent with, and indivisible from all internationally recognized human rights and conceived in an integral manner and include all of the civil, cultural, economic, environmental, political and social rights that the international human right treaties enshrine. This assumes the guarantee of the rights to decent work, to create and affiliate with civil associations; freedom to organize and join in peaceful assembly, social security; the highest attainable standard of health; potable water and other social services; food; adequate clothing and housing; quality public education, participation in culture; information; political participation; access to justice; and the right to peace. It also includes respect, protection and realization of right of minorities and ethnic, racial, sexual and cultural pluralism with respect for migrant and gender equity.

The Charter also develops the claim to emerging human rights to land, energy, public transport (as an element of the human right to freedom of movement and other livelihood rights), urban planning and management as public goods and services equitably available to and enjoyed by all.

Cities and their surrounding areas (city-regions) constitute a spatial and territorial context in which to exercise and fulfill personal and collective rights by guaranteeing the equitable distribution and use of the resources, wealth, services, goods and opportunities that exist in the cities in a universal, just, democratic, participatory and sustainable manner. For this reason, *the right to the city* also embodies the right to development, to a clean environment, to enjoy and preserve natural resources and to participate in building, enjoying and maintaining the city's historical and cultural endowment.

II. Principles and tools

The **World Charter for the Right to the City** sets out three principles guiding the concept of *the right to the city*:

- 1. Full exercise of citizenship:** realization of all human rights and fundamental freedoms and corresponding responsibilities, assuring the collective dignity and well-being of all people in conditions of equality, equity and justice, as well as full respect for the social production of habitat.²
- 2. Democratic Management:** The city is a collective construction with multiple actors and processes. It is necessary to guarantee the right to participation through direct and representative forms in the creation, definition and oversight of public policy implementation in the cities, prioritizing the strengthening, transparency, efficiency and autonomy of local public administrations and peoples' organizations.
- 3. The social function of urban property and the city:** Common interests for socially just and environmentally balanced use of urban space takes precedence over the individual right to property. All citizens have the right to participate in development, use and maintenance of urban property within democratic parameters of social justice and environmental sustainability. City management and governance policies should promote socially just and equitable use of property.

The right to the city asserts and defends the objective of building an urban ethic based on social justice and democratic citizenship. *The right to the city* imbues urban policies with solidarity and full citizenship toward the construction of an inclusive, shared, dignified, equitable, just and peaceful city. It affirms "urban rights"³ and requires precepts, instruments and procedures that enable the conceptual and institutional transformations needed so that the city can exercise its social function.

To protect *the right to the city* and make it effective, local governance and inhabitants must not oppress or exclude, but rather implement civic principles, rules and instruments to recognize and institutionalize the rights of all people who live in the city-region. First, government, especially local government, must be constitutionally empowered to apply instruments and authorities within the state that achieve urban property's social function,

and public policies should pursue this goal. Secondly, relevant legislation and public policies at all levels must give effect to these principles, rules and instruments, along with the other connected and inter-related rights constituting *the right to the city*.

III. Legal precedents to the World Charter for the Right to the City

- Article 34⁴ and 45f⁵ of the OAS Charter (1948);
- General Comments N° 4, 7, 11, 15 and 16 of the UN Committee on Economic, Social and Cultural Rights;
- Art. 65 of the Constitution of Portugal (1976);
- Art. 47 of the Constitution of Spain (1978);
- Art. 182 and 183 of the Constitution of Brazil (1988);
- Some articles of the Autonomous City of Buenos Aires' Constitution (Argentina, 1996);
- European Charter for the Safeguard of Human Rights in the City (Saint Denis, 2000);
- Statute of the City (Brazil, 2001);
- Charte Montréalaise des Droits et Responsabilités (Montréal, 2004);
- Action plan of the XVII Ibero-American Summit of the heads of state and governments, Declaration XVII, point 29 (2007);
- Art. 31 and 376 of the Constitution of Ecuador (2008);
- Mexico City Charter for the Right to the City (2010).

How to implement the *right to the city*

Public policy instruments to advance *the right to the city*

The right to the city should be incorporated in the various activities and policies that the government develops, directly and indirectly.

The following aspects should be especially worked on to guarantee that the *right to the city* becomes a reality:

Legal norms: The principles of *the right to the city* should be used to build a legal and institutional framework that promotes social and territorial inclusion in the city-region. This framework should prioritize the social function of urban land over real estate speculation as a mode of providing adequate housing.

Instances of institutional participation: the right to direct, equitable and deliberative participation in the political process, as well as in local government norms and programs, is essential to guarantee the city's social function. In order for this to happen, mechanisms of social control, forums of direct and deliberative citizen participation and democratic management tools should be institutionalized. This can be done through creating councils, committees, social forums and holding meetings and public hearings, among other things.

Planning tools: It is necessary to legalize and regulate the spaces that are established for protecting housing and the commons. Likewise, the budget for implementing urban-planning policies and programs needed to consolidate the *right to the city* has to be guaranteed.

It is fundamentally important to raise consciousness, persuading public officials and the population on the need to incorporate and guarantee the *right to the city* within public policies, as well as educational processes and curricula.

There is no special formula for implementing the right to the city. Each social, cultural and political context should be looked at to find specific mechanisms that will consolidate *the right to the city*.

The public powers have to coordinate the use of specific tools for territorial intervention, in order to achieve the goals of *the right to the city* and socially responsible urban reform, and this can be a struggle.

Some of the tools used in Latin America

Participation	<p>Participatory budgeting: is a democratic-participation tool that connects the people to the authorities, enabling citizens to influence and make decisions related to public budgets, with the goal of establishing investment priorities in their region. Originating in Brazil, participatory budgeting is now used throughout Latin America. One notable experience with participatory budgeting is the case of Porto Alegre RS, in Brazil.</p>
	<p>Neighborhood impact evaluation: is implemented mainly to control environmental impacts of large projects through participation of the population in the affected area. However, this evaluation tool could be used for urban projects to measure their effects on communities, not only on environmental terms, but from the standpoint of social and economic effects, issues of mobility and displacement of low-income populations, etc.</p>
Planning	<p>Master Plan, Territorial Organization Plan, Participatory Plan, Urban Mobility Plans, Urban Development Plans, etc.</p> <p>Many cities have instruments for planning urban territory, especially in relation to land use. This planning process has to be participatory, in order to guarantee inclusion not only in the current, existing city, but in the planned city.</p> <p>Most importantly, planning should guarantee that the projections for land use and construction projects prioritize low-income populations.</p>

Tax	<p>Property Tax: Property taxes exist nearly everywhere. In order that they become an adequate tool to achieve <i>the right to the city</i>, they should sanction uses that are not socially just such as buildings and lots that are underutilized, or vacant, through charging a progressive tax, based on up-to-date lists of land values and use.</p>
	<p>Contributions from construction projects, improvements and inversions: Public works tend to increase land values, transferring public income to the owners in the form of higher real-estate valuation. The resulting income is publicly produced and, therefore, should belong to the public, the local or central government should charge a percentage of the increase in value of private property, applying it to other public works. In this manner, the contributions of those who have benefited from increased wealth improve the means of financing public works.</p>
	<p>Participation in socially produced values: is a tributary requirement for property owners who benefit from increased land values due to urban interventions that changed land use or increased its</p>

	approval. ⁶
Compulsory Social Function	<p>Order for construction, urbanization and priority land use: Enables the government to establish a time limit for landlords to implement the social function of the property they own. One tool is fundamental for this instrument: proportional tax yield for the municipal government based on inventory of empty land and buildings in the city.</p>
	<p>Expropriation of land paid for in public debt bonds: Along with the previous instrument the municipal government can acquire the property, independently of the wishes of the owner, if the deadline passes for the property to meet social use requirements. This can be done with the tool of expropriation, with a settlement paid in public debt bonds in the value corresponding to the appraisal of the empty or unused land or building. .</p>
Land Provision and Recognition of Social Housing	<p>ZEIS (Special social interest zones) and Cultural Zones:⁷ These instruments are applied mainly in Brazil, where the government can designate certain land areas for social housing for low income populations through defining boundaries for these areas in the city plan. They can be applied in free zones (empty lots and land in areas of expansion), or in areas that are already occupied. This instrument is used to guarantee land reserves for social housing and to guarantee that the low-income population can stay in informal areas that already have been inhabited. These instruments also can be used to guarantee that ethnic groups subject to historic discrimination such as <i>quilombo</i> communities (former villages founded by escaped slaves) and indigenous groups can remain in specific areas of the city with secure tenure.</p>
	<p>Concession of special use for social housing purposes: When the occupied areas are on public land, it is very difficult to guarantee legal tenure to the inhabitants through granting of deeds. However, the state can implement processes in which it freely concedes this land to the occupants to guarantee their security, for the purpose of occupancy for social housing, or social production of housing/habitat.</p>
	<p>Land regularization: designates a range of processes that are implemented in city zones that arise outside the formal planning process. It includes the legalization of land titles in favor of the occupants to guarantee legal security of tenure and recognition of existing buildings, as well as their incorporation in official plans. In addition, land regularization can include processes of urban improvement and economic and physical inclusion in the city, road building, provision of public services, etc.</p>

Advances in Implementing the Right to the City

Illustrative Constitutional, Legislative and Municipal Standards from Latin American

Brazilian Constitution of 1988

Social Function → The Brazilian Constitution bears an important chapter on Urban Policy (Chapter II). According to its Article 182, urban development policy is carried out by the municipal government, according to general guidelines set forth in the law, and is aimed at “ordaining the full development of the social functions of the city and ensuring the well-being of its inhabitants.” Paragraph 2 stipulates that urban property performs its social function “when it meets the fundamental requirements for the ordainment of the city as set forth in the master plan,” thereby making the social function of property a constitutionally required feature of urban planning.

Colombia – Constitution of 1991 and Law 388, 1997

Ecological and Social Function → Guarantees that private property and other rights acquired through civil law cannot be reverted through posterior laws. When a law is applied **for reasons of public use or social interest that results in a conflict of individual rights that needs to be reconciled, private interests should cede to public and social interests. Property is a social function that implies obligations.** Therefore, it has an inherent **ecological function** (Columbian Constitution of 1991, Art. 58).

Principal of territorial planning and regulation → Law 388 of 1997 describes three planning systems: **i. The Plans for Territorial Ordinance**, for towns with over 100,000 inhabitants; **ii. Basic Territorial Use Plans**, for towns with between 30,000 and 100,000 inhabitants; and **iii. Territorial Usage Schemes**, for towns with fewer than 30,000 inhabitants.

Democratic participation → *“Citizens’ participation can develop through **the right to petition, the celebration of public hearings, exercising the action of carrying out, creation, discussion and execution of the territorial plans and in the processes of granting, modification, suspension and revocation of urban licenses, according to the conditions established in that law and its regulations**” (Law 388, of 1997, Art. 4°)*

Ecuador – Constitution of 2008

Right to the city → **Ecological and Social Function** → In the urban context, Article 31 of Ecuador’s Constitution provides that:

“Persons have the right to fully enjoy the city and its public spaces, on the basis of principles of sustainability,

social justice, respect for different urban cultures and a balance between the urban and rural sectors. Exercising the right to the city is based on the democratic management of the city, with respect to the social and environmental function of property and the city and with the full exercise of citizenship.”

Constitution of the Plurinational State of Bolivia

Respect for diversity in to the city → The Bolivian Constitution guarantees diversity and direct representation for indigenous peoples in local governance. Article 284 provides:

- I. The City Council shall be composed of elected councilors and councilors elected by universal suffrage.
- II. II. The nations or rural native indigenous peoples in the municipalities that do not constitute a rural native indigenous autonomy may elect their representatives to the Municipal Council directly, pursuant to their own norms and procedures and in accordance with the Organic Municipal Charter.

Rights to, and Social Function of Property → Article 56 provides that: Everyone has the right to private, individual or collective property, provided that it serves a social function.

- II. Private property is guaranteed provided that the use made of it is not harmful to the collective interests.

Statute of the City, Brazil – Law N° 10.257/01

Planning	The Law applies spatial criteria to determine the reach of action of each type of planning. Section 1 refers to the competency of the federal union and the states to create “national, regional and state plans for territorial organization and economic and social development.” The second section deals with the states’ obligation to establish “planning for metropolitan regions, urban conglomerations and micro regions.”
Tax and Finance	<ul style="list-style-type: none"> A. a tax on buildings and urban territory (<i>imposto predial e territorial urbano</i>, or IPTU); B. a contribution of the majority; C. . incentives and fiscal and financial benefits.

Legal and Political Instruments	<p>(a) expropriation; (b) administrative servitude; (c) administrative limitations; (d) preservation of buildings and urban real estate; (e) creation of conservation units; (f) creation of special social interest zones; (g) concession of usage rights; (h) concession of special use for housing purposes; (i) mandatory parceling, building and usage; (j) special <i>usucapion</i> of urban property (<i>i.e.</i> acquisitive prescription, adverse possession, or squatter's rights);⁸ (l) surface rights; (m) right of precedence; (n) onerous concession of the right to build and modification of use; (o) transference of the right to build; (p) urban consortium operations; (q) land tenure regularizations; (r) free technical and legal assistance for disadvantaged communities and social groups; (s) popular referendum; (t) urban demarcation for regularization of land tenure; (u) legitimization of ownership.</p>
Environmental Impact Study	<p>The Environmental Impact Study (EIS) orients the municipal governments' decision over license concession for projects that will have a significant effect on the urban space. The EIS is a tool for democratic management, since it is formulated for all of society to be heard and participate in decisions. Furthermore, all documents and environmental impact studies have to be made available to any interested party.</p>
Democratic Management	<p>I – democratic, council systems for urban policy at the municipal, state and national levels;</p> <p>II – debates, hearings and public consultation;</p> <p>III – conferences on subjects of urban interest at national, state and municipal levels;</p> <p>IV – peoples' initiatives for laws, plans, programs and urban development projects.</p>

City of São Paulo, Brazil

Municipal Law N° 15.234 of 2010

The Statute of the City stipulates a tool for mandatory subdivision, building and usage. The objective of this instrument is to give municipal governments the power to induce usage of underused or vacant lots that are not built on and that are important for city development. The statute determines that the cities create specific legislation for the areas designated for applying this tool in their master plans.

In São Paulo, the law that regulates this tool is 15.234, of 2010. The law regulates the use of vacant lots in social interest zones (ZEIS 2 and ZEIS 3) and on the perimeter of the urban center.

The law stipulates that in case of noncompliance with the conditions and deadlines established for subdivision, building and mandatory use, the urban property tax (*imposto predial e territorial urbano*, or IPTU) will be applied according to a graduated rate, increasing over a period of 5–15 years, with no exceptions or amnesty allowed.

When the 5-year period of progressive IPTU tax has passed, without compliance with the obligations stipulated for the compulsory subdivision, building and usage standards, the municipality can expropriate the property, paying a settlement in public debt bonds.

Exclusive Bus Corridors

The São Paulo Mayor's Office presented a bill for the creation of exclusive bus lanes and the widening of 34 avenues and 25 streets with the goal of implementing 228km of additional bus corridors to the city's urban mobility plan.

The City plans to interconnect bicycle, road, rail and subway corridors. The structuring of the bus corridors is a prerequisite for the organizational changes in the city that are predicted in the next Master Plan, which also will represent an economic intervention in the public space.

The bill was approved in the first vote of the City Council. A second vote will be needed to turn it into a law, but the date hasn't been set yet.

Participatory Councils

The participatory council, created by Municipal Decree N° 54.156 of 2013, has an eminently public character. It is an autonomous civil society organization recognized by the municipal public power as an instance of people's representation in each region of the city. Its role is to exercise the right to social control by monitoring of public spending and actions as well as representing the needs of diverse areas of the municipality.

The councils have between 19 and 51 members per neighborhood, in accordance with the population size, with the average having 10,000 inhabitants, in all 32 districts of São Paulo. A total of 1,113 councilors were elected. The mandates last for two years.

There is also a **council for immigrants**. 20 councilors were elected to represent the foreigners who live in 19 districts in São Paulo.

Urbanization Plans and ZEIS Management Councils

In the Strategic Master Plan of 2002, the urban land-use policies were consolidated with the demarcation of ZEIS and the implementation of regularization programs such as the current programs⁹: favela urbanization; regularization of public areas; and urbanization and subdivision in private areas.

As soon as ZEIS areas are designated, the procedure is to establish an urbanization plan for the area, with the goal of promoting adequate development in the territory. The Urbanization Plan establishes specific conditions and parameters for the physical recuperation and regularization of the land that is occupied in an irregular manner, as well as solutions for disaster risk areas occupied by housing.

A further objective of the Urbanization Plan is to promote participation of the residents in the involved areas in all of the processes from planning to execution. Participation primarily takes place in the management councils, which includes members of government, residents and owners of property in the ZEIS areas.

In this manner, the management councils work for the democratic management of the urban space, especially for the low-income population.

Bogotá, Colombia: Land-use plan (2012–2016)

Axis	<p>1. A city that reduces segregation and discrimination: the human being in the center of the development process;</p> <p>2. A territory that build resilience in confronting climate change and organizes around the issue of water;</p> <p>3. Bogotá defending and strengthening the public interest;</p>
Mechanisms	<p>→ Qualification and localization of land plots and mandatory percentages for prioritizing public-interest housing construction: any new land should earmark at least 20% for social housing. The municipalities should increase this minimum amount in their territorial plans or set it in urban renewal strategies. According to Art. 66 of the Plan: “priority interest housing will be located throughout the city, and the following mandatory percentages are established for it: 1. During the first year from when the regulations enter in effect, the district administration is required to dedicate 20% of the usable land in any project to building priority use housing; 2. Starting from the second year the mandate is for 30% of the usable land.</p> <p>→ Social, economic and environmental plan every four years, embedded in the central government’s plan. In this way, the social, economic and environmental planning is linked to municipal investment programming.</p>
Compact City Model	<p>“Stimulate redensification processes (understood as the increase in population living in a specific area) enabling greater heights and square meters of construction in the city’s central areas and in zones with a higher presence of economic activities that rely on good conditions of accessibility and promote better use of these areas, for localizing a larger quantity of the population there.”</p> <p>“Search for urban equilibrium, namely, where there is more population there should be more parks and recreational equipment. Thus, the areas that can be redensified should undergo a process of reurbanization (public service provision, parks, equipment and roads) in accordance with the needs of the new population. For this, all of the urban projects should comply with the urban regulations and public interest housing prioritization requirements (housing costing a maximum of 70 times the minimum wage)”;</p> <p>“Promote the construction of public interest housing (<i>viviendas de interés prioritario</i>, or VIP, in Spanish) in adequate locations with the objective of facilitating access of low-income citizens to centers of employment and urban services.”¹⁰</p>

Discussion questions

- I. What are the existing debates around the theme of *the right to the city* and the international, national and local letters and documents related to the theme?
- II. What are the possibilities and limitations for action developed by nongovernmental organizations, social movements, networks and civil society organizations, identifying the processes that they encounter in development of the theories that have been generated in relation to *the right to the city*?
- III. Based on the local experiences of participants, what is the relationship between finance and planning in the urban territory? How can these elements become more cohesive?
- IV. What are the tools and instruments that can be used to guarantee direct citizen participation at the local and national levels? What are the challenges to successful peoples' participation?
- V. What are the low-income housing policies that have been used in your country or city? What has worked? What were and are the challenges?
- VI. What mechanisms are essential for regularization of occupied areas, especially for low income populations, aimed to guarantee the right to adequate housing and, consequently, *the right to the city*?
- VII. What are some examples of social production of habitat and housing in your city-region? How do local and central governments relate to these examples and the communities who built them?
- VIII. How is the concept of "social function of property" addressed in your constitution and/or in national and local development policy?

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Endnotes

- ¹ Henri Lefebvre, *Le Droit à la ville* (Paris: Éd. Anthropos, 2^e ed., 1968).
- ² All nonmarket processes carried out under inhabitants' initiative, management and control that generate and/or improve adequate living spaces, housing and other elements of physical and social development, preferably without—and often despite—impediments posed by the State or other formal structure or authority. (For more information and cases, go to HIC general website and HIC-HLRN website.)
- ³ The range of human rights specifically applied in the context of human settlements at any urban scale.
- ⁴ In particular, paras. (k) Adequate housing for all sectors of the population; and (l) Urban conditions that offer the opportunity for a healthful, productive, and full life.
- ⁵ "The incorporation and increasing participation of the marginal sectors of the population, in both rural and urban areas, in the economic, social, civic, cultural, and political life of the nation, in order to achieve the full integration of the national community, acceleration of the process of social mobility, and the consolidation of the democratic system. The encouragement of all efforts of popular promotion and cooperation that have as their purpose the development and progress of the community."
- ⁶ In Spanish, *plusvalía* (*mais-valia* in Portuguese) signifies the appreciation in value or capital gain from a change in the zoning or use, sale or development of land or property. When this added value derives from municipal land or property, this type of *plusvalía* is known as "socially produced value." When applying the concept of social function of property, such *plusvalía* becomes value that should redound to the benefit of the community or municipality, with the function of distributing its benefits to needy citizens, or other public purposes. See Colombia Ley 388 "*Ordenamiento Territorial Municipal y Distrital*" (1997).
- ⁷ These examples are distinct from a Special Economic Zone (SEZ) set aside, for example, in India, China or elsewhere under Free Trade Agreements with the United States and Canada, which are geographical regions where free-market principles prevail over the country's national economic, labor, customs and other laws. Such SEZs often operate outside of international labor standards and other regulations. Usually the goal of such a structure is to increase foreign direct investment by foreign investors, typically an international business or a multinational corporation (MNC). Other terms for these SEZs include Free Trade Zones (FTZs), Export Processing Zones (EPZs), Free Zones (FZs), Qualified industrial zones (QIZs), Industrial Estates (IEs), Free Ports, Urban Enterprise Zones and others.
- ⁸ Usucaption (Latin *usucapio*) (in U.S. and U.K. known as "acquisitive prescription") is a concept found in civil law systems and has its origin in the Roman law of property. Acquisitive prescription is a method by which ownership of property (i.e. title to the property) can be gained by possession of it beyond the lapse of a certain period of time (acquiescence). While acquisitive prescription has been compared with adverse possession (that is, squatting), the true effect of acquisitive prescription is to remedy defects in title.
- ⁹ See the portal of the Municipality of São Paulo (*Prefeitura de São Paulo*), at: <http://www.prefeitura.sp.gov.br/cidade/secretarias/habitacao/programas/index.php?p=141>.
- ¹⁰ "ABC del Plan de Ordenamiento Territorial 2013" (Bogotá: Alcaldía Mayor de Bogotá D.C., 2013), pp. 8 and 9, at: http://www.sdp.gov.co/portal/page/portal/PortalSDP/POT_2020/Cartilla-ABC-POT-digital1.pdf.