

**URBAN SUSTAINABILITY AND THE RIGHT TO THE CITY: AN
INEXORABILITY**

Dr. Deepthi Rodda

Research Associate, Damodaram Sanjivayya National Law University, Visakhapatnam,

Email: dipthirodda@gmail.com

Abstract

The insufficient legal recognition of the right to the city limits the full scope of urban sustainability. The present article is based on this, in which, with the use of sociological, analysis-synthesis, theoretical-legal and hermeneutic-legal methods, the issue of the right to the city is approached from the intrinsic relationship it has with urban sustainability. In its development, aspects related to urban sustainability and the right to the city is addressed, in accordance with the most common conceptions used, its dimensions and the indicators that determine its presence, as well as the main limitations it currently has. It also assesses the position of this issue on the agendas of the main global, regional and national organisations, as well as the main actions and legal support to contribute to its realisation. Emphasis is placed on how urban sustainability is becoming a priority issue for States and how the legal recognition of the right to the city can contribute to its improvement.

Keywords: Urban Sustainability, Individualization, Socialization, Materialization, Industrialization, Right to the City;

Introduction

Urban sustainability is a topic of great importance, especially when we see how those cities whose planning takes into account the environmental, economic and social dimensions are more likely to have a more harmonious development. It is a term marked by polysemy, which requires an analysis of the indicators that determine it and the context in which it is assessed, in order to be better understood. The position of this issue on the agendas of the main global, regional and national organisations, as well as the main actions and legal backing to contribute to its realisation, are not ignored either. The considerations offered with regard to sustainability are dissimilar; not all countries have the same vision of it, although it is possible to find elements that determine certain regularity. It is a concept that, despite the debates related to its definition and scope, represents an important code for the organisation of national, regional, rural and urban development in different continents and countries. It is necessary to overcome

the tendency to simplify it to the aspects most closely related to the environment without integrating it to its full potential as a basis for integrated planning.¹

Urban sustainability is the search for sustainable urban development that does not degrade the environment and provides quality of life for citizens. Without renouncing economic development, it must contribute to solving the two main complications caused by the current economy: social inequality and ecological degradation. As a viable paradigm, it provides a new vision for urbanism, as it aims to integrate ecosystem protection, social participation and equitable economic development. In the face of sprawling urban centres and the high demand for environmental goods and services that this generates, it is one of the main ways to ensure liveability in cities.²

One of the characteristics of the current era is precisely the accelerated urbanisation that is evident on a planetary scale; it is not always accompanied by the necessary infrastructure and, increasingly, cities are experiencing crises that reveal unquestionable symptoms of urban unsustainability: social and spatial segregation, disadvantaged neighbourhoods, inequalities in access to facilities and services, among others. The will of the States has great relevance in terms of the actions that are established to counteract such problems; in fact, some are committed to the right to the city as one of the useful alternatives in this regard; above all, from a legal perspective, while recognising, as states, that this is not enough.

When delving into the content of the right to the city, it is possible to notice the close link it has with urban sustainability. It is a right that is under permanent collective construction; so much so that from the first approach to it, in 1968, by the French philosopher Henry Lefebvre, to the first time that the right to the city has been discussed, it is possible to see the close link between the right to the city and urban sustainability.³

At present, there are many different conceptions of it. It is strongly based on the application of principles based on human dignity, equality, social justice, equity and others. Lefebvre identifies it as a higher form of law: the right to freedom, to individualisation in socialisation, to habitat and to residence.⁴ He was followed by other important academics and researchers

¹ NASEAM, *Pathways to Urban Sustainability: Challenges and Opportunities for the United States*. Washington, <https://doi.org/10.17226/23551> (Jan. 15, 2023).

² E. Soja, *The Socio-Spatial Dialectic*, *Annals of the Association of American Geographers*, 70 AAAG 201, 207–225 (1980).

³ MARIUS PIETERSE, RIGHTS-BASED LITIGATION, URBAN GOVERNANCE AND SOCIAL JUSTICE IN SOUTH AFRICA: THE RIGHT TO JOBURG 76-79 (1st ed., Routledge: Taylor & Francis, 2017).

⁴ Marie Huchzermeyer, *Humanism, creativity and rights: invoking Henri Lefebvre's right to the city in the tension presented by informal settlements in South Africa today*, 85 TRANSFORMATION 64, 77-79 (2014).

who focused their studies on this new right and contributed to visualising it from other angles. The enquiries related to the right to the city are significant; what is not revealed in the same way in its link with urban sustainability. In relation to the latter, there is also an important academic production; however, it is generally approached from its economic and environmental dimensions, with the social dimension remaining more limited. The greatest attention is paid to it by disciplines such as Architecture, Geography and Urban Planning; they produce a body of legislation and doctrine that helps to give a modern treatment to the subject and to structure important debates under the aspect provided by Legal Science. Thus, the theme addressed in this article can be admitted as little dealt with and of little theoretical-practical knowledge, which determines its timeliness, novelty and relevance, as well as the pressing need to develop it. It focuses on how the right to the city can counteract manifestations of urban unsustainability.⁵

Methodology Used

Depending on the objective set, various methods are used: some are general methods of the Social Sciences, such as sociological and analysis-synthesis; others are specific to the Legal Sciences, including legal-theoretical and legal-hermeneutic methods. Through the sociological method, concepts and techniques are applied that facilitate the collection of data in order to interpret aspects related to the phenomenon of urban sustainability from the social dimension. For its part, the analysis-synthesis method facilitates the decomposition of the elements related to the right to the city and urban sustainability, which are finally integrated on the basis of their interconnections. The legal-theoretical method is used as an essential tool, bearing in mind that this is a doctrinally controversial subject. The hermeneutic-legal method is used to assess the meaning of the right to the city in its connection with urban sustainability, all of which favours a specific approach to this right, to human reality, which is, by essence, interpretative.

Conceptual Framework

A better understanding of the nexus between urban sustainability and the right to the city requires a deeper understanding of their concepts and others with which they are strongly linked, such as urbanisation and the city. As an important part of the habitat, the city, since its origin, has been the focus of human development. Given the current boom in the phenomenon of urbanisation, its value is multiplied by everything related to it in all its facets. The concept

⁵ Mark Purcell, *Possible Worlds: Henri Lefebvre and the Right to the City*, 36(1) J. URB. AFF. 141, 147–154 (2013).

of urbanisation depends, to some extent, on the society in which it is used. For the purposes of this paper, we follow, in admitting it as a process through which a relationship with space is modified, without this link being univocal; it can be used in different ways, according to the social and cultural characteristics of the group that occupies it.

In addition, it is important to bear in mind some aspects that complement this notion, as well as the criteria of each country to define it. The term city, on the other hand, is sometimes used to designate a specific urbanised political-administrative entity, or in some cases, to describe an area of contiguous urbanisation, which may include several administrative entities. Depending on the country in question, different elements are taken into account to define it; most of them include population, population density, legal status and the fact that it is mainly dominated by industry and services. There is a great deal of agreement in admitting that within urban entities, the city is the most densely populated.

Cities are an expression of the development achieved by humanity from its origins to the present day. With regard to their conception, there are dissimilar criteria, above all because they can be analysed from the perspective of various disciplines, including: Sociology, Anthropology, and Geography, Urban Planning, Literature, History, Social Geography, Economics, Statistics, Philosophy and Law, the latter being the focus of the present analysis, although it starts from more general questions. Defining the city is no simple task, as it is the result of the perspective from which it is viewed in the State to which it belongs, despite the existence of regular elements that can be taken into account internationally.

It is precisely at this level that, various documents and legal instruments are developed, which in some way contribute to shaping what is known as the city. Among them is the 2005 World Charter for the Right to the City.⁶ From a geographical and spatial planning point of view, is very correct in identifying the city as an urban space or territory, in addition to having a certain number of people and the fact that it contains essential public services for human beings. From this and other criteria analysed, it is a somewhat generalised idea to consider it as a territorial space, where there should be a certain concentration of population, and an accumulation of both economic and social activities.

There is greater agreement that each type of society implies a characteristic city, inextricably interwoven with its typical social structure; it forms a complex system characterised by continuous processes of development and change; defined by the concentration of means of

⁶ UN-Habitat, 2005, art. 1.4.

production, population, financial, administrative, political and service resources. In defining the city from the perspective of Law, the observations made by other sciences are taken as a basis, and it is not lost sight of the fact that even in the legal sciences there is also a multidisciplinary perspective. Therefore, in her link with the right to the city, the author takes into account the need to value it legally, without losing its integral focus, by virtue of which it is considered as a local political community, understood as both a collective space and a suitable place for the political, economic, social and cultural development of the population.

In the current global context, cities face a variety of challenges. The one that stands out is sustainability, for which it must become a strategic space of new territorial centrality, from which to offer more appropriate responses to diversity and the new challenges that arise: counteracting social exclusion; preventing territorial hyper specialisation; avoiding inequalities between places and the people who live there; reconciling global and market pressures on the city with the social and collective aspirations of its inhabitants, so that the pre-eminence of one does not make the other invisible; and the need to reinvent oneself, politically and culturally so that it can respond efficiently to the needs that its functional expansion implies. Urban sustainability, despite being valued from different approaches and perspectives, suggests the quality of people's living space; it is very relevant nowadays in view of the well-known positive and negative effects brought about by the phenomenon of urbanisation. For this reason, it is accepted as an essential reference for the present 21st century to emerge as a new paradigm in urban planning. In these conceptual analyses, one cannot lose sight of the fact that sustainable urbanism is not synonymous with sustainable development.⁷

The latter is broader and establishing it does not depend exclusively on urban planning. However, the application of the term sustainability has some pitfalls, among which the concept of sustainable development itself stands out. Its meaning is universally accepted; however, there is no uniformity of criteria for its assimilation; in this sense, there are multiple interpretations, some of which deviate considerably from the original meaning that marks its genesis. Thus, conceptualisations fluctuate, from those that put economic growth before the environment, to those that consider that sustainable development has more to do with the absolute protection of nature even at the expense of human well-being. This shows that each expression of sustainability is based on a particular point of view in society, determined by ideological, scientific and social factors, conditioned at the same time by the interests of the

⁷ HENRI LEFEBVRE, *THE URBAN REVOLUTION* 124-132 (Minnesota University Press, 2003).

actors involved and the circumstances surrounding them. It is this author's opinion that sustainability necessarily implies the holistic integration of the environmental, economic and social dimensions; this transcends urban sustainability; to ignore it would be to conceive it in a partial way.

Environmental sustainability implies that urban planning should cause the minimum impact on the environment and space; the city is developed by proposing to consume the least amount of resources and energy and to generate the least possible amount of waste and emissions. In this sense, urban planning also seeks environmental restoration, which is why ecological planning must be implemented as a strategy for organising the city economic activities, as well as the rational use of the territory, making the territorial vocation congruent with the productive activities and constructions of the city, the different interventions and functions that are envisaged for a given territory and the balanced socio-economic development between regions.⁸

In relation to economic sustainability, urban development must be economically viable, which means that it should not consume more resources than those strictly necessary in development projects and at the same time, these must provide an economic advantage to the city and its inhabitants, which obviously includes the generation of jobs and increase the competitiveness of the city, with the intention of generating economic equity among society. In addition, urban development must incorporate sustainable technologies in its constructions and real estate and thus generate business opportunities in this field.⁹ Social sustainability, on the other hand, is a way of ensuring the well-being of society; in order to be sustainable, any urban project must respond to the social demands of its surroundings, improving the quality of life of the population, and ensuring citizen participation in the design of the project.¹⁰

This multidimensional integration in urban planning means that the conditions for improving the quality of life in the city are based on the physical determinants of the environment and the improvement of human living conditions, which requires economic progress and social development.¹¹ Therefore, in order to achieve urban sustainability, it is necessary to find

⁸ Ian Scoones, *The Politics of Sustainability and Development*, 41(1) ANL. REV. ENV. & AND RE. 272, 293-319 (2016).

⁹ Henita Rahmayanti, et al., *The Role Of Sustainable Urban Building in Industry 4.0.*, J. PHYS.: CONF. SER. 1387 23, 35-37 (2019).

¹⁰ Basiago, *Economic, Social, and Environmental Sustainability in Development Theory and Urban Planning Practice*, 19 THE ENV.LIST 145, 156-161 (1999).

¹¹ Fatimazahra Barramou & Khalifa Mansouri, et.al., *Toward a Multi-Dimensional Ontology Model for Urban Planning*, 12(6) J. GEO. INFO. SYS 23, 24-27 (2020).

solutions related to the allocation of physical spaces for urban expansion, with the concession of social and economic activities and new ideas and construction design, which facilitate the compatibility between environmental services of the city with the human actions of a city; all with the intention of minimising the negative impacts of these on the environment and enhance economic and social development. Without renouncing economic development, the two main complications caused by the current economy must be resolved: ecological degradation and social inequality. The city is highly dependent on the environment and at the same time transfigures it; it requires the use and exploitation of the elements provided by nature, because by using and transforming them it ensures their permanence and their possibilities of reproduction and expansion at a given time, so that misuse deteriorates the quality of urban life. Urban sustainability, therefore, is the search for sustainable urban development that does not degrade the environment and provides quality of life for citizens, where the demands of the economy, environmental protection and everything that implies social cohesion are harmonised.¹² The right to the city is also characterised by polysemy, especially if we take into account that it is under permanent discussion and construction. It represents a notion whose content is transformed over time, also according to the scenario in which it unfolds. Since the end of the 60s of the twentieth century, when the international level has seen a broad expansion of academic production on the subject, as well as its approach through international organisations, networks, social movements, international and national instruments and others from civil society organisations, which promote its development.

The dissimilar considerations offered with respect to this right, since its genesis, serve as a substratum to understand what is currently being said about its definition. It should not be overlooked either that the indicators respond, to some extent, to what is stipulated in each State, because although principles, policies and guidelines are drawn up at different levels, it is there where they are implemented, in accordance with their peculiarities, there are other reasons that also limit their establishment; although it is not the aim of this paper, it is worth considering them. First of all, the urban sphere is unclear, i.e. the physical or administrative boundaries of the city are not always clear, which is why we usually work with the municipal division, which serves as a homogeneous starting point, but is not ideal. Another issue is the lack of data, as data collection for the purpose of making comparisons of urban settlements at the global level

¹² D. Harvey, *The Right to the City*, 53(September–October) NEW L. REV. 20, 23-40 (2008).

is complex; many of the data that characterise cities are widely dispersed. In addition, they are not always correctly weighted, which has repercussions on their significance.

Finally, there is the lack of a homogeneous methodology for temporal and spatial comparison, especially for comparison at the global, regional or national level when homogenising quality of life and development levels between different cities, even between neighbourhoods within the same city. Here it is also appreciated that not all cities have the same urban structure. In view of this situation, several organisations are promoting actions that contribute to achieving progress in the determination of sustainability indicators applicable to urban planning and that in some way serve as a guide for States, without ignoring their willingness to establish other criteria as well. However, it is worth mentioning the United Nations Organisation and with it, the Habitat Programmes and Agenda 21 (UNCED, 1992, Art. 40), of the 1992 United Nations Conference on Environment and Development, which plays a fundamental role in this framework, above all for its scope and for proposing important criteria for the evaluation of sustainability. From the above, it can be seen that most indicators of sustainable urban development today seem to have the same structure. They refer essentially to the physical or environmental, to socio-demographic and economic aspects, and finally to the availability of alternative, more sustainable lifestyle options, which are of great importance when integrating physical sustainability and economic well-being. It is also noteworthy that not all indicators are oriented towards the same urban model, which makes it possible to differentiate between two large groups with different problems: cities in developed countries and cities in developing countries. In developing cities, the proposed indicators focus on issues related to the sustainability of minimum standards of quality of life and development. In this way, issues such as the number of dwellings connected to supply and sanitation networks, life expectancy at birth, female-headed households, households below the poverty line, among others, are indicated. Developed countries, especially those with a long urban tradition, have high living standards and successive phases of industrialisation. The sustainability of development focuses on aspects such as the quality of the urban environment and surroundings, as well as the solution to problems arising from high population concentration and internal mobility.¹³

In both cases, the indicators are also that the political system of the society in question ensures the effective participation of citizens in decision making. In addition, economic, social and ecological needs must be addressed jointly and the economic system must be able to

¹³ A. LEICHT, J. HEISS, *et.al.*, ISSUES AND TRENDS IN EDUCATION FOR SUSTAINABLE DEVELOPMENT 200-209, (UNESCO Press, 2018).

generate surpluses and know-how in a self-sufficient and sustainable manner. It must also include a participatory process with local residents. This includes the social system offering solutions to the tensions arising from non-harmonious development, in addition to the production system respecting the obligation to preserve the ecological basis of development. There needs to be an equivalent multi-sectoral community forum or group to monitor the process.

Significantly, it is recognised that the existing technological system must constantly seek new solutions and that an Action Plan with long-term goals must be prepared. The management system must be flexible and self-correcting. A monitoring and evaluation framework needs to be in place, as well as indicators to measure progress. There are other criteria that also indicate sustainability, which correspond to the following elements: mixed land use, where the rights of people and nature coexist; use of compact building design, where their interdependence is recognised; creating a variety of housing opportunities and options; respecting the relationship between spirit and matter; creating walkable neighbourhoods; promoting distinctive and attractive communities with a strong sense of place; preserving open space, agricultural land, natural landscapes and critical environmental areas; eliminating the concept of waste; strengthening and directing development towards existing communities; reliance on natural energy flows; presence of a variety of transportation options; making development-related decisions as predictable, fair and effective as possible; seeking constant improvement in knowledge sharing; and finally, promoting community collaboration in development decisions.¹⁴ The analysis of these indicators, in addition to serving as a guide to determine the state of societies, acquires great connotation as it also facilitates the assessment of the main features of urban unsustainability at present. These can be grouped into those of a social, economic, territorial and urban nature. The former include marginalisation, exclusion, poverty, stratification, abandonment of historic centres, effects of separation from work and home environments, loss of one's own culture and alienation.¹⁵

Economic features include: unemployment, excessive tertiarization of the economy, little economic diversification, dependence on foreign resources, increasing mobility and the energy needs of the local economy.

¹⁴ Basiago, *Economic, Social, and Environmental Sustainability in Development Theory and Urban Planning Practice*, 19 THE ENV.LIST 145, 156-161 (1999).

¹⁵ A. Ramachandran, *Impacts of Urbanization on the Lifestyle and on the Prevalence of Diabetes in Native Asian Indian Population*, 44(3) DI. RESEARCH & CLINICAL PR., 199, 207-213 (1999).

Territorial and urban planning issues include: lack of roads for vehicles, lack of open spaces, poorly functional buildings, limited recreational areas, and unregulated land consumption in the urban perimeter, sub-urbanisation, and the need for transport infrastructure, among others. In general, as described in previous paragraphs, the manifestations of urban unsustainability are not expressed equally in all societies, but it is possible to refer to some regularities, worthy of concern, that threaten the full development of people, mainly in the dissimilar urban settlements. It is clear that in cities marked by these unsustainable conditions, it can be seen that there is a concentration of people who accumulate unsustainable factors. Vulnerability, such as broken and single-parent families, disabled or socially maladjusted people, a low level of education, vocational training that is obsolete for the labour market, who have scarce economic resources and a greater dependence on social benefits.

In many cases their housing is inadequate and they occupy peri-urban areas or undeveloped land, and it should be noted that they generally form poorly maintained settlements, with environmental degradation, deficient services and poor accessibility. It also coincides with the fact that in some of them there is a concentration of immigrant population with different cultures, languages and ethnicities, which makes it difficult for them to integrate into local society.

Contradictorily, to a considerable extent, far from resolving these problems, they are increasing. There are processes that reinforce, in the most vulnerable, situations of decline. Among the most significant of these are public interventions (works, regulations) that isolate and block a neighbourhood or city, preventing its regeneration; progressive accumulation of housing for vulnerable groups, due to zoning and ordinances that do not facilitate the diversity of supply in the same neighbourhood; progressive concentration of very vulnerable groups in central or peripheral areas, which in many cases are substandard housing or have minimal conditions of habitability; inadequate policies with particularly vulnerable groups that enter a cycle of marginalisation, especially children, young people, women, the elderly and the disabled.

In addition to the above, there are other situations such as the following: disappearance of local businesses, which close or relocate, and rejection of new investments due to issues of social environment, physical environment, insecurity; informal economy environment and tendency of some sectors to marginalisation, given the extension of job insecurity; lack of resources in the family environment and in social networks, as a consequence of the scarcity of work of the members, the reduction and irregularity of income and the scarce patrimony; difficulty for

residents to access new vocational training and jobs, and even to consider their potential skills; lack of adequate opportunities and lack of information and advice on existing opportunities in terms of training, the labour market, support for entrepreneurship; finally, insufficient support for the cultural and associative life of neighbourhoods and, in particular, ignorance of the participation of those affected in decision-making and in the implementation of the policies that most affect them.¹⁶ Although these circumstances are not the same, as has already been stated, there is a similarity in the causes that give rise to them: moving to cities, where it is assumed that better living conditions exist, even if it is to settle in places that do not have the possibilities of these; as well as the absence of coherent and effective generalised policies with respect to the transformation of these realities. The same need to articulate a vision of equity and inclusion in the treatment of territorial and social problems in the urban environment determines that dissimilar social movements, governmental and non-governmental organisations at different levels, from local to global, in several countries, incorporate in their missions, focus, analysis and work projections, issues related to cities as engines of global growth and the consolidation of urban sustainability in the world. An example that illustrates this is the fact that the Member States of the United Nations hold the United Nations Conference on Housing and Sustainable Urban Development every 20 years. This process is led by the UN's lead agency on urban development, the United Nations Human Settlements Programme, better known as UN-Habitat. These meetings are an occasion to discuss guidelines and define actions to strengthen global political commitment to environmentally sustainable, balanced and equitable social development of towns, cities and other human settlements, both rural and urban, and to ensure socially and environmentally sustainable, balanced and equitable urban development.

The first conference, Habitat I, was held in 1976 in Vancouver, Canada. Twenty years later, in 1996, Habitat II was held in Istanbul, Turkey. Both conferences recognised, among other things, the need to promote sustainable urban development, ensure adequate shelter for all and generate sustainable human settlements in an increasingly urbanised world. The Urban Agendas are adopted as a guide to achieve the adopted agreements. If it is a question of measuring their impact, it is worth recognising that since then, more than a hundred countries have endorsed the right to adequate housing in their Supreme Laws.¹⁷

¹⁶ David Harvey, *The Right to the City*, DAVIDHARVEY.ORG (Feb.21, 2023), <https://davidharvey.org/media/righttothecity.pdf>

¹⁷ UNHABITAT, <https://unhabitat.org/history-mandate-role-in-the-un-system> (last visited Jan. 6, 2023).

The year 2000 marked a very important milestone with the Millennium Summit, which, by virtue of giving continuity to what was agreed in the Habitat Agendas, brought together the main provisions of these agendas in what are known as the Millennium Development Goals. One of its priorities is to eradicate poverty and ensure environmental sustainability. The basic precepts of the Habitat Agenda are also supported by other highly relevant meetings, such as the World Summit on Sustainable Development in 2002 and Rio+20 in 2012.¹⁸

Similarly, the World Urban Forum in Medellin, Colombia, in 2014, which, based on the exchange of various representatives of governments, the private sector, international organisations, academia and other actors, reaffirmed commitments to integrate urban equity into the development agenda, is an important action. In this arsenal of pro-urban sustainability actions, the Post-2015 Development Agenda, which has become a guide of goals to be achieved in 15 years to address the global development agenda, includes a specific goal for the sustainable development of cities and human settlements.¹⁹

October 2016 marks the time of the Habitat III Conference in Quito, Ecuador, where the global commitment to sustainability is reinvigorated. The international community collectively assesses rapidly changing urban trends and the ways in which these patterns are impacting human development, environmental well-being and civic and governance systems around the world. It adopts a New Urban Agenda, which enables new goals to be set and strategies to be implemented that respond to the challenges of this increasingly urbanised age. It seeks to reconcile, with greater emphasis than previous ones, the inescapable link between urbanisation and development. To this end, it addresses in depth the so-called development enablers and operational mobilisers.

It cannot be overlooked that this event is taking place in circumstances that mark high levels of inequality, especially in urban areas, where two-thirds of the population is believed to be experiencing greater inequality than two decades ago.²⁰

Attempts to achieve sustainable urban development are already going back some time in history. Expectations have not yet been fulfilled, but progress is being made, at least in terms of raising awareness of the issue, not only by the organisations mentioned above, but also by civil society, which is increasingly integrating a growing number of social movements,

¹⁸ Ivan Turok, *Cities, Regions and Competitiveness*, 38(9) REGIONAL STUDIES 46, 52-56 (2004).

¹⁹ Marcelo Souza, *Which Right to Which City? In Defense of Political-Strategic Clarity*, 2(1) INT. J. & SOC. MOVETS. 61, 72-73 (2010).

²⁰ UN-HABITAT, *UN Conference on Housing and Sustainable Urban Development : Habitat III*, <https://www.scconline.com/blog/wp-content/uploads/2020/07/20th-Harvard-bluebook.pdf>, (Dec. 27, 2022).

protagonists of these struggles for an efficient urbanism where cities respond to the main current problems, so that they can become fairer, more supportive, equitable and respectful of differences.

The above justifies the incessant search for more concrete and effective alternatives that help to convert urban space into a relevant scenario for social change, given that, as is evident, the greatest limitations are concentrated in it. Thus, new institutions appear, such as the right to the city, outlined from different dimensions, the legal dimension being of transcendental value in relation to what is analysed in this paper. Right to the city vs. urban unsustainability. New ways of thinking about the city and other human settlements are demanded; and therefore, new ways of dealing with urban problems, revealing manifestations of urban unsustainability. In the face of this, the right to the city is presented as a proposal whose connotation is growing, above all because of its meaning, its scope and the elements of effectiveness that it can provide from a legal perspective.²¹

The right to the city implies significant structural transformations that transcend the patterns used for the form of appropriation of territory and natural resources. It refers to the search for solutions against the negative effects of globalisation, privatisation, scarcity of natural resources, increasing global poverty, environmental fragility and their consequences for the survival of humanity and the planet.

The models of urban development, the function of the city, the determination of urbanisable spaces, the existence of public spaces and other aspects that point towards sustainability, are decisions that affect society as a whole in one way or another. The right to the city includes several aspects in its content, which, by their very nature, have a direct capacity for action and can deploy their greatest effects around sustainable urbanism; from them we can see the close relationship between the two.

García states that it is not exactly a new right, given that it provides for the effective fulfilment of all internationally agreed human rights, the Sustainable Development Goals and the commitments of the Habitat Agenda. This right offers concrete instruments to transform human settlements into a commons and a collective creation. It contributes to the implementation of the paradigm on cities and territories as rights, which requires fundamental changes in the conceptions, knowledge, attitudes and practices of a broad spectrum of actors and institutions at multiple levels. This same author recognises that this is a right that, thanks to the elements

²¹ Kirabo Kacyira, *The Future We Want*, 94(1&2) UN-Habitat (2012).

it presents, can be admitted as a valuable alternative, focused on the local level, with a great impact on the attention to urban problems that, when assessed on a higher scale, often go unnoticed, including: socio-spatial exclusion; territorial inequality in terms of employment, services and infrastructure; the quality and accessibility of public spaces, among others.

It is also supported by who warns about its vindicative sense in terms of human settlements and urban development. The right to the city, as asserts, has the particularity of not looking at the individual in isolation, but rather of considering him or her as part of a whole, as an integral part of humanity; it contributes to interpreting the needs and desires of the natural person seen in its social dimension. Among the merits of this right, in its link to urban sustainability, is that its full and effective materialisation requires the respect, protection and fulfilment of all human rights without exception, along with the concrete principles and rights that specifically emanate from the right to the city: the social function of the city, the fight against socio-spatial discrimination, quality public spaces and sustainable and inclusive urban-rural linkages.²²

Tibajuka²³ indicates that it is a collective right of all the inhabitants of the city, especially those who are vulnerable and disadvantaged, which is reinforced by López (2000), alluding to the facets in which it manifests itself.²⁴ It is suggested that this right incorporates a collective interest, that is, a need that is not attributable to a single individual but to a collectively, which is synthesised in the equitable usufruct of what the city has to offer under criteria of sustainability, equity, equality and social justice.²⁵ Human rights outline the contours of what the city has to offer and determine that it is not subject to the sway of political will. The right to the city, as Correa also affirms, implies a series of particular and social benefits, which individually considered can be claimed as a particular right, for example, decent housing, public space, building safety, mobility, etcetera. However, the sum of these interests, together with many others, draws its outline, which without eliminating the characteristics of each of them, configures an interest, a new right, which as a whole, is considered a collective right.²⁶

²² U. Ramanathan, *Illegality and the Urban Poor*, 41(29) ECO. & POL. WKLY 13, 20-22 (2006).

²³ ANNA KAJUMULO TIBAIJUKA, *Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlements Issues in Zimbabwe*, <https://unhabitat.org/sites/default/files/documents/2019-05/wuf-5.pdf> (Jan. 18, 2023).

²⁴ R. Shukla, *Rights of the Poor: An Overview of the Supreme Court*, 41(35) ECO. & POL. WKLY 7, 8-12 (2006).

²⁵ Lopez RP and HP Hynes, *Obesity, Physical Activity, and the Urban Environment: Public Health Research Needs*, 25(2) ENV. HEALTH. 35, 42-44 (2006).

²⁶ RIGHT2CITY, *Declaration on Human Rights Day and the Right to the City*, <https://www..org/news/declaration-on-human-rights-day-and-the-right-to-the-city/> global platform for right to city (Feb. 12, 2023).

The effective materialisation of urban sustainability in its environmental, economic and social dimensions coincides with the content of the right to the city, which can counteract the manifestations that threaten it. There are different challenges to be taken on so that this right can finally contribute, through its application, to the verification in practice, regardless of the type of society in question, of the indicators that reveal the existence of such sustainability. Firstly, there is a need for greater legal recognition of the right to the city. While it is true that progress is being made in this area, it is still insufficient. Few countries include it in their supreme laws, in this case, Ecuador and Mexico, and in other provisions of the legal system, the most important of which are France, Brazil, Ecuador, Argentina and Mexico: France, Brazil, Ecuador, Argentina and Mexico. This is perhaps based on the original relationship between the Constitution and the right to property, as stated by Martínez, who also warns about the possibility of the Supreme Law assuming at a given moment that the decision on public space and urban planning is related to decisions of a political nature, based on the collective will.²⁷

The other major challenge is that wherever such positivisation is achieved, institutional frameworks and platforms for the enforceability of this right should be created and promoted to facilitate the full observance of what its content implies. This is the only way to ensure that the right to the city, by representing a claim of citizenship as an essential attribute of the urban, is declined, as far as urban planning is concerned, in planning for complexity, social relations, sustainable mobility, accessibility, collective identity, citizen participation and the main aspects that contribute to sustainability, in its multidimensional nature.

Results obtained

1. A characterisation of manifestations of urban sustainability in order to determine the limitations that are present in today's societies.
2. A systematisation of theoretical assumptions concerning the relationship between urban sustainability and the right to the city.
3. A rationale that helps to argue for the application of the right to the city to contribute to the achievement of greater urban sustainability.

²⁷ RITA VELLOSO AND MIGUEL A. MARTÍNEZ, PRINCIPAL INVESTIGATORS. URBAN STRUGGLES FOR THE RIGHT TO THE CITY AND URBAN COMMONS IN BRAZIL AND EUROPE 167-181 (The Swedish Foundation for International Cooperation, 2019).

Conclusion

Urban sustainability has indicators that, although they have their particularities according to the society in which they are verified, reveal how it has limitations, the expression of which also differs in the different contexts. Nevertheless, similarities are recognised in the causes that give rise to them, as well as the need to counteract them through the willingness of states to design and implement concrete and effective actions, as well as the application of more viable alternatives to those used to date. From various theoretical and comparative assumptions, the close relationship between urban sustainability and the right to the city is recognised, as well as the viability of the latter in terms of its contribution to the achievement of the former. The right to the city is revealed as one of the legal proposals for change in the face of manifestations of urban unsustainability; however, despite its growing connotation, not all countries endorse it or appreciate its meaning and scope in the same way in their legal systems, and there are insufficient platforms of enforceability to make it effective, in terms of compliance with the indicators foreseen to guarantee urban sustainability.