A Human Rights’ Perspective for the Right to the City

Miloon Kothari

The city of today does not recognise everyone equally. Neither does it make available its services, benefits or opportunities to all. The most marginalised and the poorest are the ones that suffer the most. Economic globalisation and the institutionalization of neo-liberal policies, including through privatization of civic services, has led to deepening inequalities of income and opportunity between and within cities. This in turn has led to an increase in the number of people forced to occupy inadequate and insecure housing and living conditions along with very unstable livelihood options.

Cities across India have become spaces marked by urban inequality and growing ‘ghettoisation’ and segregation. Where new projects (gated communities, malls, entertainment complexes) have created a clear demarcation between ‘rich’ and ‘poor’ areas, slums are sprawling, with little access to essential civic services, especially water, electricity and sanitation. The poor continue to be forcibly evicted from their homes to make way for neighbourhoods of cities that have become playgrounds for the rich. The existing reality in Indian cities thus argues for the need for a broad-based, holistic and encompassing right to the city as a human rights response.

1. The Right to the City within the Human Rights Framework

The multiple violations of human rights evident in Indian cities calls for the adoption and implementation of a strong human rights based approach, as the only way to preserve and uphold the dignity of all residents of the city and to address the multiple violations and problems faced by millions.

As already mentioned earlier in this volume, the movement for the “Right to the City” has developed as a response by social groups and civil society organizations from across the world in an attempt to ensure better access to opportunities for everyone living in cities, especially the most
marginalized and deprived sections. This led to the elaboration of a *World Charter on the Right to the City*. The RTTC is not to be viewed as a new legalistic right, but as an articulation to consolidate the demand for the realization of multiple human rights within city spaces. The concept and implementation of the RTTC needs to be grounded in the basic human rights principles of: non-discrimination; indivisibility of human rights; gender equality; progressive realisation; non-regression; subsidiarity; solidarity; and cooperation. It emphasises that attention to persons and groups in situations of vulnerability should be given priority and also stresses responsibility and sustainability as core principles.

2. Expanding the Right to the City

While the *Charter* is a comprehensive document and provides useful guidance and operating principles to take it forward and make it a reality, there is however a need to go beyond it to ensure the guarantee of all human rights to all those living and seeking to live in city spaces, with a special focus on the marginalized and vulnerable groups. The RTTC needs to encompass the ideals of an alternative, adequate, and ideal city. It is not merely the right to any city, especially not to a city the way we know it today, but a city based on mutual respect, tolerance, democracy, social justice, and which incorporates the following principles:

*Indivisibility of human rights*

The basic principle of the RTTC is that human rights are interdependent and indivisible. This calls for the simultaneous realization of all human rights for all residents of the city. This means that all human rights — civil, political, economic, social, cultural and environmental rights — must receive equal priority in city governance, in planning, management, and implementation. The critical human rights that must be respected, protected and fulfilled include, *inter alia*, the rights to an adequate standard of living, including adequate housing (and basic services like sanitation and electricity); water; food; health; work-livelihood; education; security of the person and home; liberty; equality; participation; information; land; environment, freedom from inhuman and degrading treatment and the freedom of movement, assembly, and residence. The RTTC should also encompass the rights to self determination, right to freedom of assembly and organization, and the right to development – social, political, cultural, spiritual, economic – both personally and collectively.

Important in the articulation and realization of the RTTC is the recognition that the right is not just an individual right but also a collective right. This includes the right of groups to collectively own, access, and benefit from resources, spaces, opportunities and services. It also encompasses the right to communal land and property as well as to public spaces.

Since human rights are interdependent and interrelated, it is important that cities are developed as spaces for mixed interaction and multiple uses. The critical links between housing, livelihood and health must be recognized to enable work places to be situated close to places of residence. Facilities for home-based work, especially for women should be provided. Schools, hospitals, and markets should also be located close to residential areas. Housing should not be situated in locations where residents face environmental, health and personal security risks.

*Non-discrimination and inclusion*

Human rights must be guaranteed to all those women, men, youth and children who choose to make the city their home – irrespective of their economic status, identity, caste, class, race, gender, religion, sexual affiliation, work, civil status, and irrespective of whether they are legal "inhabitants" or "citizens." Social inclusion includes the right to be accepted and to be considered equal. It is also linked to the issue of identity and the feeling of belonging to a city. Everyone must have equal access, entitlement
and enjoyment of the city’s services, spaces, and benefits as well as the collective enjoyment of culture.

Inclusiveness also refers to the adoption of inclusive models of city planning and development, as well as the creation of mixed income and mixed class neighbourhoods to prevent social segregation, gentrification and social apartheid, and the increasing “ghettoization” of city spaces. Moreover, the poor and homeless must not be criminalized and subjected to forms of abuse and violence by the state and its machinery. Anti-vagrancy and anti-beggary laws need to be abolished in order to recognize the contributions of the working poor to the city economy.

The principle of non-discrimination and the imperative of inclusion are immediate obligations and cannot be postponed by states claiming lack of resources or other constraints. This principle, therefore, needs to be seen as complementary with the principle of progressive realisation outlined below. The RTTC must be defined as the right to an inclusive and gendered political, social, cultural and spiritual space.

**Priority to vulnerable and marginalised groups**

The principle of non-discrimination also calls for special protection and priority to be given to the rights of the most marginalised groups. These include persons belonging to groups which have been historically discriminated against such as the Dalits and nomads, the homeless, street children, persons with disabilities, single women, victims of violence, domestic workers, migrant workers, sex workers, persons living with mental illness and HIV/AIDS, religious and sexual minorities, workers in the informal sector, internally displaced persons, refugees, the destitute and those living in precarious conditions. Within each of these groups, special attention must be given to children, women and older persons. Special measures need to be taken to protect the rights of each of these groups. For instance, provisions need to be made for persons with disabilities – to enable their equal access to city spaces and participation in city life. This would involve making roads, sidewalks, housing, buildings, public spaces, and public toilets, accessible to all persons with disabilities. For the homeless the right to the city would mean access to permanent shelters with all required civic services and at appropriate locations close to places of employment. Affirmative action measures may also be required to promote the rights and interests of marginalized groups.

The RTTC must include a strong commitment to poverty reduction. This includes removing discriminatory provisions in laws and policies that go against the poor and economically weaker sections. Financial incentives, subsidies, credit, and priority housing, with security of tenure, must be provided to all those living in inadequate and insecure conditions, including all those currently threatened with evictions.

**Gender equality**

The RTTC has to be interpreted as the right to a gendered city that ensures the equal protection and realization of women’s human rights. City spaces are largely dominated by patriarchal relations in production and distribution. Cities must protect women’s rights to housing, privacy, security and freedom from violence. There is a need for strong initiatives developed in consultation with women to make cities safe, to ensure that women have equal access to both public and private spaces, public transport, streets, sidewalks, markets, parks, toilets (both public and private), workspaces, political spaces, and community spaces. The rights of women to natural resources and livelihood, including home-based work should also be protected within all city spaces. This includes access to permanent shelters reserved for women, safe spaces for victims of domestic violence, and hostels for single mothers and working women. Women’s participation in city planning and representation in governance is also critical towards promoting a balanced and equitable development of the city.
Interdependence and sustainability

The RTTC must also recognize the interdependence of action and effects—the effect that actions of one group have on the human rights of others. It does not support the application of rights within a specific area where excessive use or misuse by one actor directly jeopardises the right/use/benefits accrued to another. Those better off cannot have the city spaces and neighbourhoods to themselves to the detriment of those from a lower income, or another caste, group. The principle of mutual responsibility and sustainability must be upheld, especially with regard to the environment, and use of land, water, electricity, and other basic resources. There need to be enforceable checks and penalties on excess use.

This principle also calls for the sustainable and responsible management of natural and ecological resources, including energy, in the city and its surroundings. The RTTC includes the right to live in a sustainable city, which protects the right to a healthy and safe environment. Given the threat of climate change and the rise in natural disasters, disaster mitigation, preparedness, and response must be a component of city planning and development. When people have to be relocated in order to protect their life and health, their right to adequate resettlement must be respected and guaranteed.

Participation and consultation

Effective, democratic and gendered participation in local decision-making and planning is critical to the realization of human rights in a city. Adequate consultation with and participation from all sections of society is key to building inclusive and democratic city spaces. The principle of prior informed consent must drive all planning and decision-making within a city. Local government agencies must not act without first consulting those who will be directly or indirectly affected by their actions. The right to participation also includes the right to political participation in the city. All residents of the city should have the right to stand for office and to vote in democratic processes, including elections. The principle further includes participation in the equitable distribution of resources of and in the city. Finally, governments must include civil society and social movements in the development and implementation of city plans.

Social function of the city and property

The city as a social unit and social space must ensure that it meets the needs of all its residents. The principle of the "social function of property" should guide all land use planning to ensure that land is not diverted to meet the interests of the rich at the expense of the poor. The notion of 'public purpose' must not be utilised by governments to turn over land for 'private profit'. For example, shopping malls must not be allowed to come up on land reserved for public housing or public schools and hospitals. The social function of property also implies that there should be limits on the size of landholdings to promote equality in land ownership.

The right to land must also be recognized and upheld to ensure equality in ownership and use of city land and city spaces. This includes the right to collectively own and manage land and property. The right to land is also integrally linked to the provision of legal security of tenure over housing and land. This would ensure protection against forced evictions, check real estate speculation and land grabbing and accumulation, enable the sustainable development of settlements, and would prioritise social uses of land. Land laws and land use policies should also define public interest to prevent the takeover of land for undemocratic purposes and should revoke the principle of eminent domain since it is largely misused by states. Special provisions, including subsidies, reservation of land and financial facilities for low cost housing, availability of credit and subsidized transport should be provided for the poor and economically weaker sections to ensure their equal access.
Recognition and respect of diversity in economic, social, political, spiritual and cultural life

The city must recognize diversity in all its forms and promote a culture of tolerance and mutual respect. It must create conditions and opportunities which enable all individuals and groups to develop and realize their full potential. The RTTC also includes the right to leisure, recreation, and collective creativity.

Progressive Realization

States must commit to the long-term realization of all human rights. They must commit to a consistent improvement in the realization of human rights and the wellbeing of all. This means that, at all times, states must be able to demonstrate that they are taking steps to promote an adequate standard of living and improvement in living conditions and to uplift, in particular, the conditions of all residents of cities who are currently living in inadequate conditions. Lack of resources cannot be used to justify the failure to implement human rights. Local and city governments must adopt this principle as a commitment to a sustained improvement in the standard of living for all city dwellers with benchmarks to monitor the progress in achieving human rights standards.

Non-retrogression

States, including local city governments and municipalities, have a specific duty not to take retrogressive measures that would jeopardize the sustenance and realization of the bundle of human rights that comprise the RTTC. Deliberate measures, either through acts of commission or omission, that lead to an increase in those living in inadequate and insecure conditions is a violation of the commitment to human rights.

3. Need for a Sensitive Interpretation of the “Right to the City”

While articulating the principles encompassing the right to the city, it is also important to enumerate what the RTTC is not, in order to prevent its misinterpretation. Experience demonstrates that the way the RTTC is currently being implemented in most cities is not in keeping with human rights principles. This in effect, is not the realization of the RTTC but its negation.

The human rights approach defines the RTTC. Any violation of human rights amounts to a violation of the RTTC.

It is important to note that the RTTC is not about controlling capital for personal gain or about unchecked consumption and unfettered growth of the market. Profit cannot be the driving principle of city development. The RTTC is also not about concentration of wealth and resources in the hands of a few. In fact it clearly calls for the need to control markets and to install safeguards to prevent situations like the recent sub-prime housing crisis in the US or the lack of affordable housing visible across India’s cities. A commitment to RTTC means that a state must review the operation and regulation of housing and tenancy markets and, when necessary, intervene to ensure that market forces do not increase the vulnerability of low-income and other marginalised groups to phenomena like forced evictions. A city cannot claim to be committed to human rights if it promotes the commodification of rights such as water, and the privatization of essential services. Private investment in areas such as housing and delivery of basic services has to be controlled if the RTTC is to be realized as a human right.

The RTTC also calls for a holistic, balanced and multicultural development. This includes the creation of mixed neighbourhoods. It is not about promoting gated communities for the rich and the forced relocation of the poor to the fringes. Implementation of the RTTC must ensure that “city beautification” and urban renewal measures do not take place at the expense of the poor. The city’s working classes, the ones who build and maintain the smooth functioning of the city, must be given adequate housing and basic services.
Their living conditions must be progressively ameliorated, in situ, as far as possible. They must not be subjected to forced evictions and displacement. The contribution of the city’s poor to the city’s economy must be acknowledged and laws should not discriminate against them and favour the rich.

4. Countering Obstacles

- The principles briefly discussed help to set the stage for taking the RTTC forward. The RTTC in our current reality, however, is limited to an elite section of society – those who have the economic and political power to benefit from the city. Many programmes, including advocacy and human rights education across all sectors of society are required. Only through such dynamic actions will we be able to ensure that the RTTC as the protection and fulfilment of the human rights of all, especially the most marginalised, is implemented and realized in cities across the world. Suggested strategies for city and national governments include: the

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**Box 34. The World Charter on the Right to the City**

The World Charter on the Right to the City is an initiative oriented toward fighting social exclusion, be it political, cultural, economic or territorial. It puts forward an approach linking human rights to democratic dimensions. Accordingly, the charter defines the Right to the City as “the equitable usufruct of cities within the principles of sustainability, democracy, equity and social justice”.

Therefore, the charter is based on six principles and strategic foundations for the Right to the City: (1) full exercise of citizenship and democratic management of the city; (2) social function of the city and of urban property; (3) equality and non-discrimination; (4) special protection of groups and persons in vulnerable situations; (5) social commitment of the private sector; and (6) promotion of the solidary economy and progressive taxation policies.

As quoted in the charter, the goal is “[…] to gather the commitments and measures that must be assumed by civil society, local and national governments, members of parliament, and international organizations, so that all people may live with dignity in our cities.”

Contrary to many other initiatives in the same vein, the World Charter on the Right to the City actually stems from grassroots initiatives comprising of NGOs, academic and professional groups rather than regional or governmental organizations. Organizations such as the POLIS Institute, the Brazilian National Forum for Urban Reform, the Habitat International Coalition, the Latin American Association of Promotion, Action Aid America, the Observatory of Metropolises, the International Observatory of City Rights, the Center on Housing Rights and Evictions, and UN-HABITAT all worked at developing and improving the charter.

The World Charter on the Right to the City is the product of years of discussion which started in the run-up to the 1992 Earth Summit in Rio de Janeiro, Brazil. The idea for the charter was first conceived in 2000 at the World Social Forum in Porto Alegre, Brazil. Following the second World Social Forum in 2002, NGOs and social movements started drafting the first version of the charter. An improved version of the charter was elaborated and released at the 2004 Social Forum of the Americas in Quito, Ecuador. It was then presented in September 2004 at the World Urban Forum in Barcelona, Spain, and in January 2005 at the World Social Forum in Porto Alegre.

Sources:
implementation of international legal human rights commitments;

- Harmonisation of local and national laws with international human rights standards;

- Implementation of human rights based court judgements and recommendations from the UN human rights system such as the treaty bodies, the Human Rights Council and the Special Rapporteurs.

- Need for human rights based reform of city policies and its development paradigm and ideology;

- Strong political will of city governments to implement human rights and to adopt and adhere to the World Charter on the Right to the City;

- Development of consolidated plans to ensure the simultaneous and collective development of all groups, with a special focus on the immediate realisation of rights for the most marginalised;

- Implementation of regulatory measures as a check against unfettered growth of the market.

5. Conclusion

As elaborated above, in order to counter the debilitating reality of the dispossession and exclusion of the working classes, including the urban poor, the ‘right to the city’ as a concept encompassing a bundle of human rights could become a powerful organizing principle for mobilization and advocacy. As a movement it could help articulate and realize the model of an alternative city – one that is grounded in human rights and based on equality, inclusion, mutual respect, tolerance, freedom, and social justice. Across the world today, individuals, movements and campaigns for the human rights to adequate housing, food, land, livelihood/work, health and security, are struggling to regain access to urban spaces and services, to secure safe housing and sustainable livelihood opportunities, to minimise forced evictions and to ensure adequate resettlement. These initiatives could rally around the paradigm of the RTTC as an organizing principle that encompasses all human rights that all residents of a city can rightfully claim as their own – with those currently poor and marginalized having priority in state policy.